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NOTE: This issue contains a proposal by the Administrative Committee of the Federal Register of interest to all users of the *Federal Register*. See page 18297.

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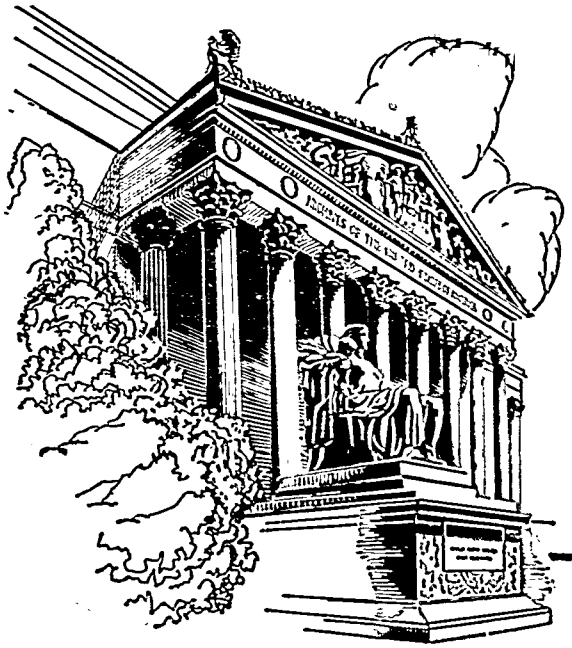

FEDERAL REGISTER

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Chapter I—Administrative Committee of the Federal Register

CFR CHECKLIST

This checklist, arranged in order of titles, shows the issuance date and price of current bound volumes of the Code of Federal Regulations. The rate for subscription service to all revised volumes issued as of January 1, 1970, is $175 domestic, $50 additional for foreign mailing. The subscription price for revised volumes to be issued as of January 1, 1971, will be $175 domestic, $45 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR unit (Rev. as of Jan. 1, 1970):

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1		$1.00
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Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

Subpart—U.S. Standards for Grades of Potatoes [1]

On October 22, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 17110) regarding the revision of U.S. Standards for Grades of Potatoes (7 CFR 51.1540—51.1556). These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers and consumers. Official grading services are also provided under this act upon request of any financially interested party and upon payment of a fee to cover the cost of such services.

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act or with applicable State laws and regulations.

Statement of considerations leading to the revision of the grade standards. Following publication of the proposal in the FEDERAL REGISTER copies were widely distributed to individuals and to groups and organizations of potato growers, shippers, receivers, retailers, and consumers.

Consumer and Marketing Service representatives discussed and explained the proposed standards at meetings of industry members and other interested persons in many States. Information concerning the proposal was carried in newspapers and trade publications.

The period for comment ended on May 1 and more than 650 letters of comment were received in response to the proposal. About 45 percent of these comments came from consumers who were not interested in technical details of the standards. They were interested in being able to buy better quality and more uniformly sized potatoes in the retail stores. Of the remainder of the comments, nearly all were from growers and shippers, or organizations representing them, in 23 States, two-thirds of them in Virginia and Florida.

Some comments indicated either complete disapproval or unqualified approval of the proposed standards. However, most of the views expressed by members of the potato industry specified the points in the proposal which were acceptable or those which were considered undesirable. There was unfavorable response concerning the proposals to increase the minimum size for U.S. No. 1, unless otherwise specified, from 1⅞ inches in diameter to 2 inches in diameter or 4 ounces in weight, and to change the Size A designation to require 50 percent 2½ inches in diameter or 50 percent 6 ounces in weight or larger. There were also strong objections to the proposals to eliminate the U.S. Commercial grade and the term Unclassified and to tighten the requirements relating to damage by sprouts.

The grade standards apply to many varieties of potatoes produced under widely varying soil and climatic conditions at different seasons of the year. It is inevitable that there will be differences of opinion among growers, shippers, receivers, and others concerning grade requirements and tolerances. It is the responsibility of the Consumer and Marketing Service to provide voluntary grade standards which are useful to the entire industry in marketing potatoes. To meet consumer demands, the grade standards should encourage the marketing of better quality potatoes, to the extent consistent with the industry's ability to produce, pack and market them at a reasonable price. The following changes from the published proposal should result in grade standards with reasonable requirements which will gain acceptance from the potato industry.

(1) The total tolerances for defects in each grade remain as proposed. However, the 2 percent tolerance in U.S. Extra No. 1 and the 3 percent tolerance in U.S. No. 1 limiting the percentage of serious damage permitted are considered unduly restrictive. They are replaced by corresponding tolerances restricting the percentage of potatoes affected by freezing, southern bacterial wilt, ring rot, late blight, soft rot, or wet breakdown. This restriction is also added to the tolerances for the U.S. No. 2 grade.

(2) The 2-inch or 4-ounce minimum size requirement for the U.S. No. 1 grade is deleted and the present minimum of 1⅞ inches in diameter, unless otherwise specified, is continued. The size designations in Table I are available to those wishing to specify a larger minimum size, or more uniform sizing.

(3) The minimum size requirement for Size A is reduced to 1⅞ inches and the required percentage of potatoes that must be 2½ inches in diameter or 6 ounces in weight is reduced from 50 percent to 40 percent. The 16-ounce maximum weight is deleted. The changes in Size A requirements and in the U.S. No. 1 minimum size from those proposed are designed to avoid unnecessary hardship to producers of early season potatoes.

(4) Changes are made in the weight ranges for potatoes packed to count, Table II, to conform these requirements to those successfully used under the Idaho-Malheur County, Oreg., Marketing Agreement and Order. For several sizes the minimum weight is reduced 1 ounce.

(5) In response to a number of requests, the U.S. Commercial Grade, omitted from the proposal, is continued. The term "Unclassified" which also was omitted from the proposal is retained.

(6) The definition of damage by sprouts is changed to permit 10 percent of the potatoes in a lot to have sprouts over ¾-inch long, as in the present standards. Reference to individual sprouts or clusters of sprouts which materially detract from the appearance of the potato is retained as proposed. This conforms to the general definition of damage, § 51.1560.

(7) The proposed requirement that U.S. No. 1 potatoes, other than new potatoes, be fairly well matured is eliminated. The mechanics of identifying and designating "new potatoes" presented difficulties out-weighing the advantages of the requirement.

(8) U.S. No. 1 potatoes will be required to be fairly clean in any size container or in bulk, in response to several recommendations. There was no opposition to this proposed requirement which was one of the recommendations of the National Potato Council.

(9) The samples for grade and size determination are reduced from 25 pounds as proposed to 20 pounds for greater efficiency in official inspection procedures.

After consideration of all relevant matters presented by interested persons, including the proposal set forth in the aforesaid notice, the following U.S. Standards for Grades of Potatoes are hereby promulgated pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

GRADES

Sec.

AUTHORITY: The provisions of this subpart issued under secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

GRADES

§ 51.1540 U.S. Extra No. 1.

"U.S. Extra No. 1" consists of potatoes which meet the following requirements:

(a) Similar varietal characteristics;
(b) Firm;
(c) Clean;
(d) At least fairly well matured;
(e) Fairly well shaped, with 50 percent or more well shaped;
(f) Free from:
(1) Freezing;
(2) Late blight, southern bacterial wilt and ring rot; and
(3) Soft rot and wet breakdown.
(g) Free from injury caused by:
(1) Sprouts; and,
(2) Internal defects.
(h) Free from damage by any other cause. See §§ 51.1564 and 51.1565.
(i) Size. The potatoes shall be not less than 2¼ inches in diameter or 5 ounces in weight and shall not vary more than 1¼ inches in diameter or more than 6 ounces in weight.
(j) For tolerances see § 51.1546.

§ 51.1541 U.S. No. 1.

"U.S. No. 1" consists of potatoes which meet the following requirements:

(a) Similar varietal characteristics;
(b) Firm;
(c) Fairly clean; [2]
(d) Fairly well shaped;

[2] Potatoes in containers bearing official State Seed Certification Tags and Seals are not required to be fairly clean but shall be free from damage by dirt.

(e) Free from:
(1) Freezing;
(2) Blackheart;
(3) Late blight, southern bacterial wilt and ring rot; and,
(4) Soft rot and wet breakdown.
(f) Free from damage by any other cause. See §§ 51.1564 and 51.1565.
(g) Size. Not less than 1⅞ inches in diameter, unless otherwise specified in connection with the grade.
(h) For tolerances see § 51.1546.

§ 51.1542 U.S. Commercial.

"U.S. Commercial" consists of potatoes which meet the requirements of U.S. No. 1 grade except for the following:
(a) Free from serious damage caused by:
(1) Dirt or other foreign matter;
(2) Russet scab; and,
(3) Rhizoctonia.
(b) Increased tolerances for defects specified in § 51.1546.

§ 51.1543 U.S. No. 2.

"U.S. No. 2" consists of potatoes which meet the following requirements:
(a) Similar varietal characteristics;
(b) Not seriously misshapen;
(c) Free from:
(1) Freezing;
(2) Blackheart;
(3) Late blight, southern bacterial wilt and ring rot; and,
(4) Soft rot and wet breakdown.
(d) Free from serious damage by any other cause. See §§ 51.1564 and 51.1565.
(e) Size. Not less than 1½ inches in diameter, unless otherwise specified in connection with the grade.
(f) For tolerances see § 51.1546.

UNCLASSIFIED

§ 51.1544 Unclassified.

"Unclassified" consists of potatoes which have not been classified in accordance with any of the foregoing grades. The term "unclassified" is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.

SIZE

§ 51.1545 Size.

(a) The minimum size, or minimum and maximum sizes may be specified in connection with the grade in terms of diameter or weight of the individual potato, or in accordance with one of the size designations in Table I or Table II: *Provided,* That sizes so specified shall not be in conflict with the basic size requirements for the grade.
(b) When size is specified in terms of the customary sizes of potatoes packed to count in standard 50-pound cartons, the weight ranges shown in Table II shall apply. These size designations may be applied to potatoes packed in any size container: *Provided,* That the weight ranges are within the limits specified.

TABLE I

Size designation	Minimum diameter [1] or weight		Maximum diameter [1] or weight	
	Inches	*Ounces*	*Inches*	*Ounces*
Size A [2]	1⅞	(3)	(3)	(3)
Size B	1½	(3)	2¼	(3)
Small	1⅞	(3)	2½	6
Medium	2¼	5	3¼	10
Large	3	10	4¼	16
Bakers	3	10	(3)	(3)

[1] Diameter means the greatest dimension at right angles to the longitudinal axis, without regard to the position of the stem end.
[2] In addition to the minimum size specified, a lot of potatoes designated as Size A shall contain at least 40 percent of potatoes which are 2½ inches in diameter or larger or 6 ounces in weight or larger.
[3] No requirement.

TABLE II

Size designation	Minimum weight	Maximum weight
	Ounces	*Ounces*
Under 50	15	
50	12	19
60	10	16
70	9	15
80	8	13
90	7	12
100	6	10
110	5	9
120	4	8
130	4	8
140	4	8
Over 140	4	8

TOLERANCES

§ 51.1546 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by weight, are provided as specified:
(a) *For defects*—(1) *U.S. Extra No. 1.* A total of 5 percent for potatoes in any lot which fail to meet the requirements for the grade: *Provided,* That not more than two-fifths of this tolerance, or 2 percent, shall be allowed for potatoes which are affected by freezing, southern bacterial wilt, ring rot, late blight, soft rot or wet breakdown, including therein not more than one-half of 1 percent for potatoes which are frozen or affected by soft rot or wet breakdown. See § 51.1547.
(2) *U.S. No. 1.* A total of 8 percent for potatoes in any lot which fail to meet the requirements for the grade: *Provided,* That included in this tolerance not more than the following percentages shall be allowed for the defects listed:
(i) 5 percent for external defects;
(ii) 5 percent for internal defects; or,
(iii) 3 percent for potatoes which are affected by freezing, southern bacterial wilt, ring rot, late blight, soft rot or wet breakdown, including therein not more than 1 percent for potatoes which are frozen or affected by soft rot or wet breakdown. See § 51.1547.
(3) *U.S. Commercial.* A total of 20 percent for potatoes in any lot which fail to meet the requirements for the grade: *Provided,* That included in this tolerance not more than the following percentages shall be allowed for the defects listed:
(i) 10 percent for potatoes which fail to meet the requirements for U.S. No. 2 grade, including therein not more than:
(ii) 6 percent for external defects;
(iii) 6 percent for internal defects; or,
(iv) 3 percent for potatoes which are affected by freezing, southern bacterial wilt, ring rot, late blight, soft rot or wet breakdown, including therein not more than 1 percent for potatoes which are frozen or affected by soft rot or wet breakdown. See § 51.1547.
(4) *U.S. No. 2.* A total of 10 percent for potatoes in any lot which fail to meet the requirements for the grade: *Provided,* That included in this tolerance not more than the following percentages shall be allowed for the defects listed:
(i) 6 percent for external defects;
(ii) 6 percent for internal defects; or,
(iii) 3 percent for potatoes which are affected by freezing, southern bacterial wilt, ring rot, late blight, soft rot or wet breakdown, including therein not more than 1 percent for potatoes which are frozen or affected by soft rot or wet breakdown. See § 51.1547.
(b) *For off-size.* (1) Not more than 3 percent of the potatoes in any lot may be smaller than the required or specified minimum size except that a tolerance of 5 percent shall be allowed for potatoes packed to meet a minimum size of 2¼ inches or larger in diameter or 5 ounces or more in weight. In addition, not more than 10 percent may be larger than any required or specified maximum size. See § 51.1547.
(2) When a percentage of the potatoes is specified to be of a certain size and larger, individual samples shall have not less than one-half of the percentage specified: *Provided,* That the average for the entire lot is not less than the percentage specified.

APPLICATION OF TOLERANCES

§ 51.1547 Application of tolerances.

Individual samples shall have not more than double the tolerances specified, except that at least one defective and one off-size potato may be permitted in any sample: *Provided,* That en route or at destination one-tenth of the samples may contain three times the tolerance permitted for potatoes which are frozen or affected by soft rot or wet breakdown: *And provided further,* That the averages for the entire lot are within the tolerances specified for the grade.

SAMPLES FOR GRADE AND SIZE DETERMINATION

§ 51.1548 Samples for grade and size determination.

Individual samples shall consist of at least 20 pounds. When individual packages contain at least 20 pounds, each individual sample is drawn from one package; when packages contain less than 20 pounds, a sufficient number of adjoining packages are opened to provide at least a 20-pound sample. The number of such individual samples drawn for grade and size determination will vary with the size of the lot.

SKINNING

§ 51.1549 Skinning.

(a) The following definitions provide a basis for describing lots of potatoes as to the degree of skinning whenever description may be appropriate:

(1) "Practically no skinning" means that not more than 5 percent of the potatoes in the lot have more than one-tenth of the skin missing or "feathered";

(2) "Slightly skinned" means that not more than 10 percent of the potatoes in the lot have more than one-fourth of the skin missing or "feathered";

(3) "Moderately skinned" means that not more than 10 percent of the potatoes in the lot have more than one-half of the skin missing or "feathered"; and

(4) "Badly skinned" means that more than 10 percent of the potatoes in the lot have more than one-half of the skin missing or "feathered".

DEFINITIONS

§ 51.1550 Similar varietal characteristics.

"Similar varietal characteristics" means that the potatoes in any lot have the same general shape, color and character of skin, and color of flesh.

§ 51.1551 Firm.

"Firm" means that the potato is not shriveled or flabby.

§ 51.1552 Clean.

"Clean" means that at least 90 percent of the potatoes in any lot are practically free from dirt or staining and practically no loose dirt or other foreign matter is present in the container.

§ 51.1553 Fairly clean.

"Fairly clean" means that at least 90 percent of the potatoes in any lot are reasonably free from dirt or staining and not more than a slight amount of loose dirt or foreign matter is present in the container.

§ 51.1554 Mature.

"Mature" means that the skins of the potatoes are generally firmly set and not more than 5 percent of the potatoes in the lot have more than one-tenth of the skin missing or "feathered."

§ 51.1555 Fairly well matured.

"Fairly well matured" means that the skins of the potatoes are generally fairly firmly set and not more than 10 percent of the potatoes in the lot have more than one-fourth of the skin missing or "feathered."

§ 51.1556 Well shaped.

"Well shaped" means that the potato has the normal shape for the variety.

§ 51.1557 Fairly well shaped.

"Fairly well shaped" means that the potato is not materially pointed, dumbbell-shaped or otherwise materially deformed.

§ 51.1558 Seriously misshapen.

"Seriously misshapen" means that the potato is seriously pointed, dumbbell-shaped or otherwise badly deformed.

§ 51.1559 Injury.

"Injury" means any defect, or any combination of defects, which more than slightly detracts from the edible or marketing quality, or the internal or external appearance of the potato, or any internal defect outside of or not entirely confined within the vascular ring which cannot be removed without a loss of more than 3 percent of the total weight of the potato.

§ 51.1560 Damage.

"Damage" means any defect, or any combination of defects, which materially detracts from the edible or marketing quality, or the internal or external appearance of the potato, or any external defect which cannot be removed without a loss of more than 5 percent of the total weight of the potato. See Tables III and IV.

§ 51.1561 Serious damage.

"Serious damage" means any defect, or any combination of defects, which seriously detracts from the edible or marketing quality, or the internal or external appearance of the potato, or any external defect which cannot be removed without a loss of more than 10 percent of the total weight of the potato. See Tables III and IV.

§ 51.1562 Freezing.

"Freezing" means that the potato is frozen or shows evidence of having been frozen.

§ 51.1563 Soft rot or wet breakdown.

"Soft rot or wet breakdown" means any soft, mushy, or leaky condition of the tissue such as slimy soft rot, leak, or wet breakdown following freezing injury.

§ 51.1564 External defects.

"External defects" are defects which can be detected externally. However, cutting may be required to determine the extent of the injury. Some external defects are listed in Table III.

TABLE III—EXTERNAL DEFECTS

Defect	Damage		Serious damage	
	When materially detracting from appearance of potato	or When removal causes loss of more than 5 percent of total weight of potato	When seriously detracting from appearance of potato	or When removal causes loss of more than 10 percent of total weight of potato
Air cracks	X		X	
Bruises	X	X	X	X
Dirt	X		X	
Enlarged lenticels	X		X	
External discoloration	X		X	
Flea Beetle injury	X	X	X	X
Greening	X	X	X	X
Rhizoctonia	X		X	
Scab, pitted	X	X	X	X
Scab, russet	X		X	
Scab, surface	When more than 5 percent of surface affected.		When more than 25 percent of surface affected.	
Sunburn		X		X
Second growth	X		X	
Growth cracks	X		X	

Defects	Damage	Serious damage [1]
Wireworm or grass damage	When any hole in a potato 2½ inches in diameter or 6 ounces in weight is more than ¾ inch long, or when the aggregate length of all holes is more than 1¼ inches, or correspondingly shorter or longer holes in smaller or larger potatoes.	When any hole in a potato 2½ inches in diameter or 6 ounces in weight is more than 1½ inches long, or when the aggregate length of all holes is more than 2 inches, or correspondingly shorter or longer holes in smaller or larger potatoes.
Insects or worms	(See serious damage)	When present inside the potato.
Artificial coloring	When unsightly or when concealing any defect causing damage or when penetrating the flesh and removal causes loss of more than 5 percent of total weight of potato.	When concealing a serious defect or when penetrating into the flesh and removal causes loss of more than 10 percent of total weight of potato.
Sprouts	When more than 10 percent of the potatoes in any lot have any sprout more than ¾ inch in length or have individual sprouts or clusters of sprouts which materially detract from the appearance of the potato.	

[1] The following defects are considered serious damage when present in any degree:
1. Freezing.
2. Late blight.
3. Ring rot.
4. Southern bacterial wilt.
5. Soft rot.
6. Wet breakdown.

§ 51.1565 Internal defects.

"Internal defects" are defects which cannot be detected without cutting the potato. Some internal defects are listed in Table IV.

TABLE IV—INTERNAL DEFECTS

Defect	Damage	Serious damage
Hollow Heart	When materially detracting from the internal appearance.	When seriously detracting from the internal appearance.
Ingrown sprouts	When removal causes a loss of more than 5 percent of the total weight of the potato.	When removal causes a loss of more than 10 percent of the total weight of the potato.
Internal discoloration occurring entirely within the vascular ring.	When more than the equivalent of 3 scattered light brown spots ⅛ inch in diameter in a potato 2½ inches in diameter or 6 ounces in weight, or correspondingly lesser or greater number of spots in smaller or larger potatoes.	When more than the equivalent of 6 scattered light brown spots ⅛ inch in diameter in a potato 2½ inches in diameter or 6 ounces in weight, or correspondingly lesser or greater number of spots in smaller or larger potatoes.
Internal discoloration outside of or not entirely confined within the vascular ring.	When removal causes a loss of more than 5 percent of the total weight of the potato.	When removal causes a loss of more than 10 percent of the total weight of the potato.

METRIC CONVERSION TABLE

§ 51.1566 Metric conversion table.

Inches	Millimeters (mm)
⅛ equals	3.2
¼ equals	6.4
½ equals	12.7
¾ equals	19.1
1 equals	25.4
1½ equals	38.1
2 equals	50.8
2½ equals	63.5
3 equals	76.2
3½ equals	88.9
4 equals	101.6
4½ equals	114.3

Ounces	Grams
1 equals	28.35
4 equals	113.40
5 equals	141.75
6 equals	170.10
7 equals	198.45
8 equals	226.80
9 equals	255.15
10 equals	283.50
12 equals	340.20
14 equals	396.90
16 equals	453.60
18 equals	510.30
19 equals	538.60
20 equals	567.00

These standards shall become effective on September 1, 1971 and will thereupon supersede the United States standards for Grades of Potatoes which have been in effect since July 15, 1958 (7 CFR 51.1540–51.1556).

Dated: November 23, 1970.

G. R. GRANGE,
Deputy Administrator, Marketing Services.

[F.R. Doc. 70-15938; Filed, Nov. 27, 1970; 8:45 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[971.311, Amdt. 1]

PART 971—LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Limitation of Shipments

Findings. (a) Pursuant to Marketing Agreement No. 144 and Order No. 971 (7 CFR Part 971), regulating the handling of lettuce grown in the Lower Rio Grande Valley in South Texas (Cameron, Hildago, Starr, and Willacy Counties), effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of the recommendation and information submitted by the South Texas Lettuce Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the amendment to the limitation of shipments hereinafter set forth will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, or engage in public rule making procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the time intervening between the date when information upon which this amendment is based because available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, (2) compliance with this amendment will not require any special preparations on the part of handlers, (3) information regarding the committee's recommendation has been made available to producers and handlers in the production area, and (4) this amendment relieves restrictions on the handling of lettuce grown in the production area.

Regulation, as amended. In § 971.311 (35 F.R. 16360) paragraphs (a) *Grade,* (d) *Minimum quantity,* (e) *Special purpose shipments,* and (f) *Inspection* are hereby deleted and new paragraphs (d), (e), and (f) are added to read as follows:

§ 971.311 Limitation of shipments.

* * * * *

(a) [Deleted]

* * * * *

(d) *Minimum quantity.* Any person may handle up to, but not to exceed two cartons of lettuce a day without regard to the assessment, size, and pack requirements, but must meet container requirements. This exception may not be applied to any portion of a shipment of over two cartons of lettuce.

(e) *Special purpose shipments.* Lettuce not meeting size or container requirements of paragraphs (b) or (c) of this section may be handled for any purpose listed, if handled as prescribed, in this paragraph. Assessments are not required on such shipments.

(1) For relief, charity, experimental purposes, or export to Mexico, if, prior to handling, the handler pursuant to §§ 971.120–971.125 obtains a Certificate of Privilege applicable thereto and reports thereon.

(2) For export to Mexico, if the handler of such lettuce loads or transports it only in a vehicle bearing Mexican registration (license).

(f) *Certification.* No handler may transport or cause the transportation of lettuce unless he certifies on a form approved by the committee that each shipment meets the size, pack and container requirements of this section. A copy of the applicable certification shall accompany each truck lot and shall be available and surrendered upon request to authorities designated by the committee.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: Dated November 24, 1970, to become effective November 24, 1970.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70-16046; Filed, Nov. 30, 1970; 8:46 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Amdt. 7]

PART 1425—COOPERATIVE MARKETING ASSOCIATIONS

Subpart—Eligibility Requirements for Price Support

ELIGIBLE COMMODITIES

The regulations issued by the Commodity Credit Corporation, published in 33 F.R. 4914, 5865, 7071, 10639, 12639, 12673, 15475, and 35 F.R. 15206, containing eligibility requirements for cooperative marketing associations to obtain price support are hereby amended as follows:

Section 1425.13 is amended to delete that portion providing that an association is not eligible to obtain price support on commodities produced by persons whose names are entered on a claim control record (indicating their indebtedness to CCC or other agencies of the United States) or who owe an instalment due on a storage facility or dryer equipment loan, and to read as follows:

§ 1425.13 Eligible commodity and pooling.

The association may obtain price support only on the quantity of the eligible commodity received from its eligible

members which remains undisposed of in its inventory at the time such commodity is offered as security for a loan or is offered for purchase. The association may establish separate pools as needed for quantities of a commodity acquired from its members. If the association obtains price support from CCC on any quantity of the commodity included in a pool, all of the commodity included in such pool must be eligible for price support. Whether pooled or not, the commodity offered for price support must:

(a) Have been produced by an eligible producer on a farm on which the production of such commodity is eligible for price support under the applicable price support program regulations;

(b) Meet the eligibility requirements for making price support to the association under applicable price support program regulations, except that a part of a pooled commodity may be ineligible for price support because of grade or quality or, in the case of cotton, bale weight or being repacked; and,

(c) Have been delivered to the association for marketing for the benefit of producer members or by association members in behalf of their producer members.

If price support is obtained on any quantity of a crop of a commodity, allocations of costs and expenses among separate pools for the crop of the commodity shall be made in accordance with sound accounting principles and practices. Any losses incurred by the association in marketing a commodity on which price support is not obtained from CCC shall not be assessed against the proceeds of marketing of a commodity on which price support was obtained. CCC may approve an exception to the foregoing requirements upon written request by the association if the Executive Vice President, CCC, determines that the approval of such request will result in equitable treatment of producers and is in accord with the purposes of the price support program.

Effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on November 23, 1970.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 70-16047; Filed, Nov. 30, 1970; 8:46 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 70-304]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, in paragraph (e) (12) relating to the State of North Carolina, subdivision (vii) relating to Pitt County is deleted, and subdivision (iv) relating to Greene County is amended to read:

(12) *North Carolina.* * * *

(iv) That portion of Greene County bounded by a line beginning at the junction of U.S. Highway 258 and Contentnea Creek; thence, following the north bank of Contentnea Creek in a southeasterly direction to Panther Swamp Creek; thence, following Panther Swamp Creek in a northerly direction to U.S. Highway 258; thence, following U.S. Highway 258 in a southwesterly direction to Secondary Road 1328; thence, following Secondary Road 1328 in a northwesterly direction to Secondary Road 1325; thence, following Secondary Road 1325 in a northwesterly direction to Secondary Road 1244; thence, following Secondary Road 1244 in a southwesterly direction to Secondary Road 1222; thence, following Secondary Road 1222 in a southerly then southwesterly direction to State Highway 58; thence, following State Highway 58 in a southeasterly direction to U.S. Highway 258; thence, following U.S. Highway 258 in a northwesterly direction to its junction with Contentnea Creek.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

This amendment excludes portions of Pitt and Greene Counties in North Carolina from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the excluded areas.

The amendment relieves certain restrictions presently imposed and must be made effective immediately to be of maximum benefit to affected persons. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 25th day of November 1970.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70-16076; Filed, Nov. 30, 1970; 8:48 a.m.]

Chapter II—Packers and Stockyards Administration, Department of Agriculture

PART 204—ORGANIZATION AND FUNCTIONS

Miscellaneous Amendments

Pursuant to the order of the Secretary of Agriculture, effective May 8, 1967 (32 F.R. 7186), and his order effective November 27, 1964 (29 F.R. 16210), as amended April 22, 1969 (34 F.R. 6938), Title 9, Chapter II, Part 204 of the Code of Federal Regulations, is hereby amended as follows:

1. In § 204.2, paragraph (b) is amended by changing the first sentence thereof, paragraph (b) (1) through (4) is added, and paragraph (d) is amended to read:

§ 204.2 Organization.

* * * * *

(b) *Office of the Administrator.* This office has overall responsibility for administering the provisions of the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. 181 et seq.), for enforcement of the Truth in Lending Act (15 U.S.C. 1601–1665) with respect to any activities subject to the Packers and Stockyards Act, 1921, as amended, and for executing assigned civil defense and defense mobilization activities. * * *

(1) *The Administrator.* The Administrator is responsible for the general direction and supervision of programs and activities assigned to the Packers and Stockyards Administration except such activities as are reserved to the Judicial Officer (32 F.R. 7468). He reports to the Assistant Secretary for Marketing and Consumer Services.

(2) *The Associate Administrator.* The Associate Administrator shares overall responsibility with the Administrator for the general direction and supervision of programs and activities assigned to the Packers and Stockyards Administration.

(3) *Executive Assistant to the Administrator.* The Executive Assistant to the Administrator participates with the Administrator and Associate Administrator in the development, administration, and analysis of policies and programs and directs the internal administrative management, information, and related activities of the Packers and Stockyards Administration and maintains liaison with the Office of Management Services in arranging for management support services.

(4) *Director, Industry Analysis Staff.* The Director of the Industry Analysis Staff serves as the source of economic advice for the Administrator on broad policy questions and on the economic implications of various Administration programs and policies on livestock and poultry producers, on the several segments of the livestock, meat, and poultry marketing, processing, and wholesaling industries, and on consumers.

* * * * *

(d) *Livestock Marketing Division.* This Division enforces those provisions of the Packers and Stockyards Act relating to stockyard owners, market agencies, and dealers. Included within these responsibilities and functions are determination of the applicability of the provisions of the act to individual stockyard operations; posting of stockyards; registration and bonding of market agencies and dealers; testing of scales and checkweighing; acceptance for filing of schedules of rates and charges; surveillance and investigation of the lawfulness of rates and charges of stockyard owners and market agencies and the adequacy of stockyard services furnished by stockyard owners and market agencies; and surveillance and investigation of trade practices within the purview of the Act, other than packer and poultry marketing practices. The Division also initiates formal proceedings, when warranted, to correct illegal practices, rates, or charges and maintains working relationships with producer and industry groups.

* * * * *

§ 204.7 [Deleted]

2. Section 204.7 is deleted and §§ 204.3 through 204.6 are renumbered as §§ 204.4 through 204.7.

§§ 204.4–204.7 [Redesignated]

3. A new § 204.3 is added to read as follows:

§ 204.3 Delegations of authority.

(a) Associate Administrator: Under the direction and supervision of the Administrator, the Associate Administrator is hereby delegated authority to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be, vested in the Administrator (including the power of redelegation).

(b) Executive Assistant to the Administrator: The Executive Assistant to the Administrator, under the direction and supervision of the Administrator and the Associate Administrator, is hereby delegated authority to act, subject to § 204.11 and paragraph (i) of this section, on behalf of the Packers and Stockyards Administration, on all requests for records of said Administration, in accordance with 5 U.S.C. 552, as implemented by this part.

(c) Division Directors: The Directors of the Industry Analysis Staff, Livestock Marketing Division, and the Packer and Poultry Division, under administrative and technical direction of the Administrator and Associate Administrator, are hereby individually delegated authority, in connection with the respective functions assigned to each of said organizational units in § 204.2, to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be, vested in the Administrator (including the power to issue subpenas and the power of redelegation) except such authority as is reserved to the Administrator and Associate Administrator under paragraph (i) of this section.

(d) Branch Chiefs:

(1) The Chief of the Rates, Services, and Facilities Branch; the Chief of the Marketing Practices Branch; the Chief of the Registrations, Bonds, and Reports Branch; the Chief of the Scales and Weighing Branch of the Livestock Marketing Division; the Chief of the Livestock Procurement Branch; the Chief of the Meat Merchandising Branch; and the Chief of the Poultry Branch of the Packer and Poultry Division are hereby individually delegated authority under the provisions of section 402 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 222), to issue special orders pursuant to the provisions of subsection 6(b) of the Federal Trade Commission Act (15 U.S.C. 46(b)) and, with respect thereto, to issue notices of default provided for in section 10 of the Federal Trade Commission Act (15 U.S.C. 50).

(2) The Chief of the Rates, Services, and Facilities Branch of the Livestock Marketing Division is hereby delegated authority to perform all acts, functions, and duties with respect to suspending the operation of schedules of rates and charges of stockyard owners and market agencies and extending the time of such suspensions as prescribed in subsection 306(e) of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 207(e)) and all acts, functions, and duties as prescribed in § 202.3 of this chapter with respect to the investigation and disposition of informal complaints involving rates or charges or the application of regulations of stockyard owners and market agencies, or the alleged failure of such persons to furnish reasonable stockyard services as required by section 304 of the Act (7 U.S.C. 205).

(3) The Chief of the Marketing Practices Branch of the Livestock Marketing Division is hereby delegated authority to perform all acts, functions, and duties with respect to the investigation and disposition of informal complaints for reparation as prescribed in § 202.3 of this chapter and to arrange for the service of documents and perform all other acts, functions, and duties of the Administrator and Administration as prescribed in §§ 202.39 through 202.43 of this chapter.

(4) The Chief of the Registrations, Bonds, and Reports Branch of the Livestock Marketing Division is hereby delegated authority to perform all acts, functions, and duties with respect to the posting and deposting of stockyards pursuant to the provisions of subsection 302(b) of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202(b)), and perform all acts, functions, and duties of the Administrator with respect to the execution of bonds and trust fund agreements under §§ 201.27 through 201.38 of this chapter, including the power to determine that a bond is inadequate under § 201.30 (f) of this chapter and to determine the amount of bond needed under such paragraph.

(5) The Chief of the Poultry Branch of the Packer and Poultry Division is hereby delegated authority to perform all acts, functions, and duties of the Director of said Division with respect to issuing of licenses pursuant to the provisions of section 502(b) of the Packers and Stockyards Act, as amended (7 U.S.C. 218a (b)).

(e) Area Supervisors:

(1) The Area Supervisors of the Packers and Stockyards Administration are hereby individually delegated authority, under the provisions of section 402 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 222), to issue special orders pursuant to the provisions of subsection 6(b) of the Federal Trade Commission Act (15 U.S.C. 46(b)), and, with respect thereto, to issue notices of default provided for in section 10 of the Federal Trade Commission Act (15 U.S.C. 50); to notify persons deemed to be subject to the bonding requirements in 7 U.S.C. 204 of their obligations to file bonds or trust fund agreements in conformity with §§ 201.27 through 201.38 of this chapter; to notify persons deemed to be subject to the reporting requirements in § 201.97 of this chapter of their obligation to file annual reports; and to grant reasonable requests for extension, of 30 days or less, of the time for the filing of such annual reports in conformity with § 201.97 of this chapter.

(2) The Area Supervisors are hereby individually delegated authority, when there is reason to believe that there is a question as to the true ownership of live-

stock sold by any person, to disclose information relating to such questionable ownership to any interested person.

(f) Investigative employees: All employees of the Packers and Stockyards Administration assigned to or responsible for investigations in the enforcement of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.) or the enforcement of the Truth in Lending Act (15 U.S.C. 1601–1665) with respect to any activities subject to the Packers and Stockyards Act, 1921, as amended or any other Act with respect to any civil defense or defense mobilization activities assigned to the Administration, are hereby individually delegated authority under the Act of January 31, 1925, 43 Stat. 803, 7 U.S.C. 2217, to administer to or take from any person an oath, affirmation, or affidavit whenever such oath, affirmation, or affidavit is for use in any prosecution or proceeding under or in the enforcement of the aforementioned Acts. This authority may not be redelegated and will automatically expire upon the termination of the employment of such employee with the Packers and Stockyards Administration.

(g) Concurrent authority and responsibility to the Administrator: No delegation prescribed herein shall preclude the Administrator or Associate Administrator from exercising any of the powers or functions or from performing any of the duties conferred upon them, and any such delegation is subject at all times to withdrawal or amendment by the Administrator or Associate Administrator or the Division Director responsible for the function involved. The officials to whom authority is delegated herein shall (1) maintain close working relationships with the Division Directors and Administrator or Associate Administrator, as the case may be, (2) keep them advised with respect to major problems and developments, and (3) discuss with them proposed actions involving major policy questions or other important considerations or questions, including matters involving relationships with other Federal agencies, other agencies of the Department, other Divisions or offices of the Packers and Stockyards Administration, or other Governmental or private organizations or groups.

(h) All prior delegations and redelegations of authority relating to any function or activity covered by these delegations of authority shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked. Nothing herein shall affect the validity of any action heretofore taken under prior delegations or redelegations of authority or assignment of functions.

(i) Reservations of authority: There is hereby reserved to the Administrator and Associate Administrator the authority with respect to proposed rule making and final action for the issuance of regulations (§ 201.1 of this chapter et seq.), rules of practice governing proceedings (§ 202.1 of this chapter et seq.) and statements of general policy (§ 203.1 of this chapter et seq.), and the issuance of moving papers as prescribed in the rules of practice, under the Packers and Stockyards Act, 1921, as amended; and the authority to make final determinations in accordance with the provisions of 7 CFR Part 1, Subpart A, as to the availability of official records and information made or obtained in connection with the administration of the Packers and Stockyards Act which are considered exempt from disclosure under § 204.9.

§ 204.5 [Amended]

4. In renumbered § 204.5, the reference to "§ 204.3" is changed to refer to "§ 204.4."

§ 204.6 [Amended]

5. In renumbered § 204.6, the reference to "§§ 204.3 and 204.4" is changed to refer to "§§ 204.4 and 204.5."

§ 204.8 [Amended]

6. In § 204.8, the reference to "§ 204.6" is changed to refer to "§ 204.7."

§ 204.10 [Amended]

7. In § 204.10, the reference to "§ 204.6" is changed to refer to "§ 204.7."

§ 204.11 [Amended]

8. In § 204.11, the phrase "or Associate Administrator" is added after the word "Administrator" in the third sentence.

§ 204.12 [Amended]

10. In § 204.12, the reference to "§ 204.6" is changed to refer to "§ 204.7."

Done at Washington, D.C., this 23d day of November 1970.

DONALD A. CAMPBELL,
Administrator, Packers and Stockyards Administration.

[F.R. Doc. 70-16077; Filed, Nov. 30, 1970; 8:48 a.m.]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER H—TRAINING

[General Order 97, Rev., Amdt. 7]

PART 310—MERCHANT MARINE TRAINING

Subpart C—Admission and Training of Cadets at the U.S. Merchant Marine Academy

GRADUATION

Effective upon the date of publication in the FEDERAL REGISTER, paragraph (c) of § 310.63 of Subpart C of this part is amended to read as follows:

§ 310.63 Graduation.

* * * * *

(c) In return for the education received at Government expense, each applicant signs an agreement to serve in one of the following categories immediately after graduation:

(1) Sail for 6 months a year in a licensed capacity aboard an American vessel for a period of 3 consecutive years;

(2) Sail for 4 months a year in a licensed capacity aboard an American vessel for a period of 4 consecutive years;

(3) Serve on active duty for a period of 3 years as a commissioned officer in uniformed services of the United States;

(4) Serve for 30 days on active duty for training aboard a vessel of the U.S. Navy each year for 3 consecutive years and be either employed ashore for the balance of each year in some phase of the maritime industry or engaged in full time graduate studies related to the maritime field.

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114; sec. 216, 53 Stat. 1183, as amended; 46 U.S.C. 1126)

Dated: November 24, 1970.

By order of the Maritime Administrator.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 70-16029; Filed, Nov. 30, 1970; 8:45 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 70-249]

FINES, PENALTIES, AND FORFEITURES, AND LIQUIDATED DAMAGES

On July 29, 1970, notice of proposed rule making for a revision of the Customs Regulations pertaining to fines, penalties, and forfeitures, and to liquidated damages was published in the FEDERAL REGISTER (35 F.R. 12124). This revision is part of the general revision of the Customs Regulations.

Interested persons were given 60 days in which to submit written comments, suggestions, or objections regarding the proposed revision. No comments were received.

The proposed new Parts 171 and 172, and the conforming amendments to Chapter I of Title 19 of the Code of Federal Regulations are hereby adopted subject to the following changes:

1. In § 8.59, paragraph (j) is amended rather than entirely deleted.

2. Section 25.19 is not deleted from Part 25 of the Customs Regulations.

3. In § 172.22, paragraph (d) is modified to reflect the amendment of its source, § 8.59(j), contained in T.D. 70-218, 35 F.R. 15911.

Parts 171 and 172, and the other amendment to Chapter I, Title 19 of the Code of Federal Regulations, are adopted as set forth below.

Effective date. These amendments shall become effective 30 days after publication in the FEDERAL REGISTER.

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

Approved: November 18, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

PART 6—AIR COMMERCE REGULATIONS

1. Section 6.11 is amended by deleting "§§ 23.23 to 23.25" in the last sentence and substituting "Part 171".

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

2. Section 8.59 is amended as follows:

a. Paragraph (i) is amended by substituting "district director" for "collector", and by inserting before the last sentence thereof a new sentence which reads: "Any application for cancellation of liquidated damages incurred shall be made in accordance with the provisions of Part 172 of this chapter."

b. Paragraph (j) is amended by deleting all but the last sentence thereof.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

3. In § 10.39, paragraphs (e) and (f) are amended by inserting after the word "filed" in the first sentence the words "as provided in Part 172 of this chapter" and by substituting "district director" for "collector" each time it appears.

4. In § 10.92, paragraph (d) is amended by substituting "district director" for "collector", and by adding at the end thereof a new sentence as follows: "Application for cancellation of the liquidated damages incurred shall be made in accordance with the provisions of Part 172 of this chapter."

PART 11—PACKING AND STAMPING, MARKING; TRADEMARKS AND TRADE NAMES; COPYRIGHTS

5. In § 11.11, paragraph (d) is amended by inserting after "filed" in the first sentence the words "as provided in Part 172 of this chapter" and by substituting "district directors" for "collectors" and "district director" for "collector".

PART 12—SPECIAL CLASSES OF MERCHANDISE

6. Section 12.38 is amended by deleting the material in parentheses at the end thereof, and substituting "(see § 171.22(b) of this chapter)".

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

7. In § 18.8, paragraph (d) is amended by inserting after the words "payment thereof" the words "filed as provided in Part 172 of this chapter" and by substituting "district director" for "collector" each time the word appears.

PART 21—CARTAGE AND LIGHTERAGE

8. In § 21.8, paragraph (c) is amended by substituting "district director" for "collector" and by adding at the end thereof a new sentence as follows: "Application for cancellation of liquidated damages incurred shall be made in accordance with the provisions of Part 172 of this chapter."

PART 23—ENFORCEMENT OF CUSTOMS AND NAVIGATION LAWS

9. In § 23.23, paragraph (c) is amended by deleting all but the first sentence, and paragraphs (d) and (e) are deleted.

10. Part 23 is amended by deleting therefrom §§ 23.24, 23.25, and 23.34.

PART 25—CUSTOMS BONDS

11. In § 25.15, paragraph (e) is amended by inserting after "application for relief" the words "in accordance with the provisions of Part 172 of this chapter".

12. Section 25.17 is amended by deleting paragraphs (a), (b), (e), (g), and (h).

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 171—FINES, PENALTIES, AND FORFEITURES

14. A new Part 171, entitled "Fines, Penalties, and Forfeitures" is added to read as follows:

Sec.
171.0 Scope.

Subpart A—General Provisions
171.1 Limitations on consideration of petitions.

Subpart B—Application for Relief
171.11 Petition for relief.
171.12 Filing of petition.
171.13 Additional evidence required with certain petitions.

Subpart C—Action on Petitions
171.21 Petitions acted on by district director.
171.22 Special cases acted upon by district director.

Subpart D—Disposition of Petitions
171.31 Act or omission did not occur.
171.32 Limitation on time decision effective.
171.33 Supplemental petitions for relief.

Subpart E—Restoration of Proceeds of Sale
171.41 Application of provisions for petitions for relief.
171.42 Time limit for filing petition for restoration.
171.43 Evidence required.
171.44 Forfeited property authorized for official use.

AUTHORITY: The provisions of this Part 171 issued under R.S. 251, secs. 618, 624, 46 Stat. 757, as amended, 759; 19 U.S.C. 66, 1618, 1624. The provisions of Subpart C also issued under sec. 1, 40 Stat. 223, as amended, R.S. 5294, as amended, sec. 9, 24 Stat. 81, as amended; 22 U.S.C. 401, 46 U.S.C. 7, 320.

§ 171.0 Scope.

This part contains provisions relating to filing of petitions and action upon petitions for relief from fines, penalties, and forfeitures incurred, and petitions for the restoration of proceeds from sale of seized and forfeited property.

Subpart A—General Provisions

§ 171.1 Limitations on consideration of petitions.

(a) *Case referred for institution of legal proceedings.* No action shall be taken on any petition if the civil liability has been referred to the U.S. attorney for institution of legal proceedings. The petition shall be forwarded to the U.S. attorney.

(b) *Vessel or vehicle awarded for official use.* When a vessel or vehicle is awarded for official use, a petition shall not be considered unless:

(1) It is filed before final disposition of the property is made; or

(2) It is a petition for restoration of proceeds of sale filed in accordance with Subpart E of this part.

Subpart B—Application for Relief

§ 171.11 Petition for relief.

(a) *To whom addressed.* Petitions for the remission or mitigation of a fine, penalty, or forfeiture incurred under any law administered by the Bureau of Customs shall be addressed to the Commissioner of Customs.

(b) *Signature.* The petition for remission or mitigation shall be signed by the petitioner. If the petitioner is a corporation, the petition shall be signed by an officer thereof.

(c) *Form.* The petition for remission or mitigation need not be in any particular form. It shall set forth the following:

(1) A description of the property involved;

(2) The date and place of the violation or seizure; and

(3) The facts and circumstances relied upon by the petitioner to justify the remission or mitigation.

(d) *Petition for relief from forfeiture.* When the petition is for relief from a forfeiture, it shall show the interest of the petitioner in the property and in appropriate cases shall be supported by bills of sale, contracts, mortgages, or other satisfactory evidence.

(e) *False statement in petition.* A false statement contained in a petition may subject the petitioner to prosecution under the provisions of 18 U.S.C. 1001.

§ 171.12 Filing of petition.

(a) *Where filed.* A petition for relief shall be filed with the district director for the district in which the property was seized or the fine or penalty imposed.

(b) *When filed.* Petitions for relief shall be filed within 60 days from the date of mailing of the notice of fine, penalty, or forfeiture incurred, unless additional time has been authorized as provided in § 23.23(c) of this chapter.

(c) *Number of copies.* The petition shall be filed in triplicate.

§ 171.13 Additional evidence required with certain petitions.

(a) *Seized property in possession of another responsible for act.* If the seized property was in the possession of another who was responsible for or caused the act which resulted in the seizure, evidence shall be produced by the petitioner as to the manner in which the property came into the possession of such other person. The petitioner shall also submit evidence that prior to parting with the property he did not know, nor have reasonable cause to believe, that the property would be used to violate Customs or other laws, and that he did not know or have reason to believe that the violator had a criminal record or general reputation for commercial crime. In the case of a family member having an interest in property seized while in possession of another family member, evidence shall be submitted that the petitioning family member did not know or have reason to know that the property was likely to be used in the act which resulted in the seizure.

(b) *Petitioner holding chattel mortgage or conditional sales contract.* A petitioner holding a chattel mortgage or conditional sales contract covering the seized property shall submit with his petition evidence showing that:

(1) He has an interest in such property, as owner or otherwise, which he acquired in good faith;

(2) He had at no time any knowledge or reason to believe that the property was being or would be used in violation of Customs or other laws of the United States; and

(3) Whether prior to the financial transaction an inquiry of at least one enforcement agency in the locality where the purchaser most recently resided, or resided in the past year, was made as to the purchaser's criminal record and reputation for commercial crime, and a responsive reply received.

Subpart C—Action on Petitions

§ 171.21 Petitions acted on by district director.

In the following cases the district director may mitigate or remit fines, penalties, and forfeitures incurred under any law administered by the Bureau of Customs on such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate:

(a) *$2,000 or less.* (1) Fines and other pecuniary penalties aggregating $2,000 or less in respect of any one offense;

(2) Forfeiture of imported merchandise or a claim for forfeiture value in lieu thereof when the merchandise is valued at $2,000 or less;

(3) Forfeiture of merchandise other than imported merchandise when the merchandise is valued at $2,000 or less, and no liability outside the purview of any other provision of this section has been incurred in connection with the same offense.

(b) *Over $2,000 but not over $20,000.* Penalty and forfeiture incurred under section 497, Tariff Act of 1930 (19 U.S.C. 1497), for failure to declare merchandise valued at more than $2,000 but not over $20,000, if the failure to declare is a first offense and involves a noncommercial importation. Where undeclared merchandise is valued at $2,000 or less, the provisions of paragraph (a) (1) and (2) of this section apply.

(c) *Not over $20,000.* (1) Forfeiture of motor vehicles, other than imported motor vehicles, valued at $20,000 or less, and no liability outside the purview of any other provision of this section has been incurred in connection with the same offense;

(2) Penalties and forfeitures, aggregating not over $20,000 in any one case and incurred under section 460, Tariff Act of 1930, as amended (19 U.S.C. 1460), for failure to report arrival as required by section 459, Tariff Act of 1930, as amended (19 U.S.C. 1459), in the following cases:

(i) Violations due to ignorance of the reporting requirements or due to inadvertence and either no merchandise, or only typical personal or souvenir merchandise which would have been free of duty, if entered, is carried in the vessel or vehicle, or

(ii) Where the violation is the first offense, although not due to ignorance or inadvertence, and no intended commercial use or threat to the revenue is involved.

(d) *Amount of penalty not specified.* Penalties imposed under title 13, United States Code, section 304, and in the amounts prescribed by Title 15, Code of Federal Regulations, § 30.24, for the failure to timely file the complete manifest of the carrier when required and all the required shipper's export declarations, when clearance or permission to depart prior to the filing thereof is granted upon the filing of the required bond.

§ 171.22 Special cases acted upon by district director.

(a) *Forfeitures of merchandise illegally transported coastwise.* Forfeiture of merchandise under title 46, United States Code, section 883, for having been illegally transported coastwise, regardless of the value of the merchandise, may be remitted if the petition for relief establishes to the satisfaction of the district director that the violation occurred as a direct result of an arrival of the transporting vessel in distress.

(b) *Forfeiture of imported liquor or compound.* When any package of or package containing any spirituous, vinous, malted, or other fermented liquor, or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, or any vessel or vehicle in which the same has been transported has become subject to forfeiture under the provisions of 18 U.S.C. 3615, for noncompliance with 18 U.S.C. 1263, and the U.S. attorney has advised the district director that there is not sufficient evidence of intent to violate the law to warrant criminal prosecution thereunder, the forfeiture incurred shall be remitted pursuant to the authority of section 7327, Internal Revenue Code of 1954 (26 U.S.C. 7327), and section 618, Tariff Act of 1930 (19 U.S.C. 1618), upon the condition that the expenses of seizure, if any, shall be paid.

(c) *Claim for property stolen in Canada and seized by U.S. Customs.* Under the provisions of Executive Order 4306, dated September 19, 1925 (T.D. 41110), any person claiming to be the owner of property stolen in Canada, brought into the United States and seized by Customs authorities for violation of law, may file with the district director having custody of the property a petition for its release, addressed to the Secretary of the Treasury. The petition shall be supported by evidence of ownership in the claimant and shall contain a waiver and release of all possible claims against the United States or any officer thereof for compensation or damages incident to the seizure and detention of the property. If the district director is satisfied that the claimant is the owner of the property and that it was brought into the United States without collusion on the part of the claimant, the district director may release the property for return to Canada upon the payment of all expenses incident to its seizure and detention. In the event of conflicting claims for the property or any doubt as to the claimant's interest in or right to the property, the district director shall submit the matter to the Commissioner of Customs for decision.

Subpart D—Disposition of Petitions

§ 171.31 Act or omission did not occur.

If it is definitely determined that the act or omission forming the basis of a penalty or forfeiture claim did not in fact occur, the claim shall be canceled by the district director. When the determination of whether or not the claim was erroneously made depends upon a construction of law, the claim shall not be canceled without the approval of the Commissioner of Customs unless there is in force a ruling by the Commissioner of Customs decisive of the issue.

§ 171.32 Limitation on time decision effective.

A decision to mitigate a penalty or to remit a forfeiture upon condition that a stated amount is paid shall be effective for not more than 60 days from the date of notice to the petitioner of such decision, unless the decision itself prescribes a different effective period or the decision is later amended to change the effective period. If payment of the stated amount is not received within the effective period, or arrangements made for delayed payment or installment payments, or a supplemental petition filed within the effective period, the full penalty or forfeiture shall be deemed applicable and shall be enforced by promptly referring the matter to the U.S. attorney for appropriate attention, unless other action has been directed by the Commissioner of Customs.

§ 171.33 Supplemental petitions for relief.

(a) *Time and place of filing.* If the petitioner is not satisfied with a decision of the district director or the Commissioner of Customs, a supplemental petition may be filed with the district director. Such a petition shall be filed either:

(1) Within 60 days from the date of notice to the petitioner of the decision on the initial petition for relief if no effective period is prescribed in the decision; or

(2) Within the time prescribed in the decision on the initial petition for relief as the effective period of the decision.

(b) *Consideration.* Where the district director has the authority to grant relief or additional relief in accordance with § 171.21, he may grant such relief if he believes it is warranted and there has been no specific request for review by the Commissioner of Customs. In all other cases, the supplemental petition, together with all pertinent documents, shall be forwarded to the Commissioner of Customs for reconsideration of the case.

Subpart E—Restoration of Proceeds of Sale

§ 171.41 Application of provisions for petitions for relief.

The general provisions of Subpart B of this part on filing and content of petitions for relief apply to petitions for restoration of proceeds of sale except insofar as modified by this subpart.

§ 171.42 Time limit for filing petition for restoration.

A petition for the restoration of proceeds of sale under section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613), shall be filed within 3 months after the date of the sale.

§ 171.43 Evidence required.

In addition to such other evidence as may be required under the provisions of Subpart B of this part, the petition for restoration of proceeds of sale under section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613), shall show the interest of the petitioner in the property, supported in appropriate cases by bills of sale, contracts, mortgages, or other satisfactory documentary evidence. The petition shall be supported by satisfactory proof that the petitioner did not know of the seizure prior to the declaration or decree of forfeiture and was in such circumstances as prevented him from knowing of it.

§ 171.44 Forfeited property authorized for official use.

If forfeited property the subject of a claim under section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613), has been authorized for official use, retention or delivery shall be regarded as the sale thereof for the purposes of section 613. The appropriation available to the receiving agency for the purchase, hire, operation, maintenance, and repair of property of the kind so received is available for the granting of relief to the claimant and for the satisfaction of liens for freight charges and contributions in general average that may have been filed.

(Secs. 305, 306, 49 Stat. 880; 40 U.S.C. 304j, 304k)

PART 172—LIQUIDATED DAMAGES

15. A new Part 172, entitled "Liquidated Damages" is added to read as follows:

Sec.
172.0 Scope.

Subpart A—General Provisions

172.1 Notice of liquidated damages incurred and right to petition for relief.
172.2 Failure to petition for relief.

Subpart B—Application for Relief

172.11 Petition for relief.
172.12 Filing of petition for relief.

Subpart C—Action on Petitions

172.21 Petitions acted on by district director of Customs.
172.22 Special cases acted on by district director of Customs.
172.23 Limitations on consideration of petitions.

Subpart D—Disposition of Petitions

172.31 Act or omission did not occur.
172.32 Limitation on time decision effective.
172.33 Supplemental petitions for relief.

AUTHORITY: The provisions of this Part 172 issued under R.S. 251, secs. 623, 624, 46 Stat. 759, as amended; 19 U.S.C. 66, 1623, 1624.

§ 172.0 Scope.

This part contains provisions relating to the giving of notice of liquidated damages incurred under the terms of any bond posted with Customs, the filing of petitions for relief from liquidated damages incurred, and the consideration of such petitions.

Subpart A—General Provisions

§ 172.1 Notice of liquidated damages incurred and right to petition for relief.

(a) *Notice of liquidated damages incurred.* When there is a failure to meet the conditions of any bond posted with Customs, the principal shall be notified in writing of any liability for liquidated damages incurred by him and a demand shall be made for payment. The sureties on such bond shall also be advised in writing, at the same time as the principal, of the liability for liquidated damages incurred by the principal.

(b) *Notice of right to petition for relief.* The notice shall also inform the principal and his sureties on the bond that application may be made for relief from payment of liquidated damages under section 623(c), Tariff Act of 1930, as amended (19 U.S.C. 1623(c)), or any other applicable statute authorizing the cancellation of any bond or of any bond charge that may have been made against such bond.

§ 172.2 Failure to petition for relief.

(a) *Referral of claim to U.S. attorney.* If the parties liable for liquidated damages incurred fail to petition for relief or to pay or make arrangements to pay the liquidated damages within 60 days from the date of mailing of the notice of the liquidated damages incurred as provided for in § 172.1, or within such additional time as may have been granted, the district director of Customs shall refer the claim immediately to the U.S. attorney for collection.

(b) *Absence from the United States.* If it appears that the parties liable for liquidated damages are absent from the United States or during the 60-day period referred to in paragraph (a) of this section were absent for more than 30 days, the district director may withhold such referral for a reasonable time unless other action is expressly authorized by the Commissioner of Customs.

Subpart B—Application for Relief

§ 172.11 Petition for relief.

(a) *To whom addressed.* Petitions for relief shall be addressed to the Commissioner of Customs.

(b) *Form.* A petition for relief need not be in any particular form. Such petition shall set forth the facts relied upon by the petitioner to justify cancellation of the claim for liquidated damages, and shall be signed by the petitioner. If the petitioner is a corporation, the petition shall be signed by an officer thereof.

§ 172.12 Filing of petition for relief.

(a) *Where filed.* A petition for relief shall be filed with the district director of Customs for the district in which the liability for liquidated damages is incurred.

(b) *When filed.* A petition for relief shall be filed within 60 days from the date of mailing of the notice of the liability for liquidated damages incurred unless an extension of such period has been granted by the district director.

(c) *Number of copies.* The petition for relief shall be filed in triplicate.

Subpart C—Action on Petitions

§ 172.21 Petitions acted on by district director of Customs.

In the following cases the district director of Customs may cancel any claim for liquidated damages incurred on such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate:

(a) *Under $500.* Liquidated damages under $500, incurred under the terms of any bond posted with Customs.

(b) *Not over $20,000.* (1) Claims for liquidated damages not exceeding $20,000 incurred for violation of the conditions of bonds taken pursuant to schedule 8, part 5C, Tariff Schedules of the United States. (See § 10.39 (e) and (f) of this chapter.)

(2) Claims for liquidated damages not exceeding $20,000 incurred for violation of the conditions of bonds taken pursuant to schedule 3, part 1C, headnote 4, Tariff Schedules of the United States. (See § 10.92 of this chapter.)

(3) Claims for liquidated damages not exceeding $20,000 in cases involving only country of origin marking under section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304). (See § 11.11(d) of this chapter.)

(4) Claims for liquidated damages not exceeding $20,000 incurred for violation of the conditions of bonds taken pursuant

to § 18.1 of this chapter. (See § 18.8(d) of this chapter.)

(5) Claims for liquidated damages not exceeding $20,000 incurred for violation of the conditions of cartmen's and lightermen's bonds taken pursuant to § 21.1 of this chapter. (See § 21.8(c) of this chapter.)

§ 172.22 Special cases acted on by district director of Customs.

(a) *Nonproduction of documents in general.* District directors of Customs are hereby authorized to treat any bond charge for the production of a missing document as satisfied upon payment by the principal or surety of the sum of $25 as liquidated damages for each missing declaration of the consignee or other document, except shippers' export declarations, special Customs and commercial invoices, and certificates of origin and certificates of reexport required under § 12.70 of this chapter, not produced within the time prescribed by law or regulations or any lawful extension of such time.

(b) *Nonproduction of special Customs or commercial invoices.* When a required special Customs or commercial invoice is not produced on the date of entry or within 6 months thereafter, unless such production is waived under the provisions of § 8.15(d) of this chapter, the bond charge for the production thereof may be canceled by the district director upon the payment of $25 as liquidated damages, if:

(1) The party who made the entry submits an application for relief explaining in detail why the special Customs or commercial invoice could not be produced within the prescribed period; and

(2) The district director of Customs is satisfied by such application or otherwise that the failure to produce the invoice within the prescribed period was due to causes wholly beyond the control of the party making the entry and not to any purpose of the foreign seller or shipper to withhold information required by law, regulation, or special instruction to be shown on the invoice.

(c) *Nonproduction of free-entry or reduced-duty documents.* When free entry or the application of a reduced rate of duty is dependent upon the production of a document which the importer fails to produce, or when a conditionally free or reduced-duty provision claimed on entry is held to be inapplicable, the claim for free entry or reduced rate of duty shall be treated by the district director as abandoned upon the assessment and payment of duty and the bond given for the production of the free-entry or reduced-duty document may be canceled without the collection of liquidated damages.

(d) *Failure to file timely entry under immediate delivery procedure.* When a timely entry for merchandise not subject to quota has not been filed after release under a special permit for immediate delivery, the district director may act upon an application for relief from liquidated damages assessed in accordance with § 8.59(i) of this chapter as follows:

(1) If he is satisfied that the delay was not deliberate, the district director may cancel such liquidated damages upon the payment of an appropriate sum which shall not exceed 10 percent of the duty assessed but not less than $25. In general, the district director shall not cancel a claim for liquidated damages upon payment of an amount in the lower range of his discretion if the entry is late by more than 3 working days. In determining the appropriate amount the district director shall take into consideration the following:

(i) The circumstances causing the delay;

(ii) The extent of the lateness;

(iii) The amount of duty involved; and

(iv) The past record of the importer with respect to the timeliness of filing entries.

(2) If he is satisfied that the violation was incurred solely because of a delay in the return by Customs to the importer of documents necessary to make entry, the district director may cancel such liquidated damages without payment.

(3) If collection of an amount greater than that provided by this paragraph appears warranted the case shall be forwarded to the Commissioner of Customs for disposition.

§ 172.23 Limitations on consideration of petitions.

No action looking to relief from the payment of full liquidated damages shall be taken on any petition, irrespective of the amount involved, if the claim has been referred to the U.S. attorney for collection as provided in § 172.2.

Subpart D—Disposition of Petitions

§ 172.31 Act or omission did not occur.

If it is definitely determined that the act or omission forming the basis for a claim for liquidated damages did not in fact occur, the claim shall be canceled by the district director. When the determination of whether or not the claim was erroneously made depends upon a construction of law, the claim shall not be canceled without the approval of the Commissioner of Customs, unless there is in force a ruling decisive of the issue.

§ 172.32 Limitation on time decision effective.

A decision to cancel a claim for liquidated damages on condition that a stated amount be paid shall be effective for not more than 60 days from the date of notice to the parties of such decision, unless the decision itself prescribes a different effective period or the decision is later amended to change the effective period. If payment of the stated amount is not made, or arrangements made for delayed payment or installment payments, or a supplemental petition filed within the effective period, the full claim for liquidated damages shall be deemed applicable and shall be promptly referred to the U.S. attorney for collection, unless other action has been directed by the Commissioner of Customs.

§ 172.33 Supplemental petitions for relief.

(a) *Time and place of filing.* If the interested parties are not satisfied with a decision of the district director or the Commissioner of Customs, a supplemental petition may be filed with the district director of Customs by the interested parties. Such a petition shall be filed either:

(1) Within 60 days from the date of notice to the petitioner of the decision on the initial petition for relief if no effective period is prescribed in the decision; or

(2) Within the time prescribed in the decision on the initial petition for relief as the effective period of the decision.

(b) *Consideration.* Where the district director of Customs has authority to grant relief in accordance with the provisions of § 172.21, he may grant additional relief if he believes it is warranted and there has been no specific request for reconsideration by the Commissioner of Customs. In all other cases, the supplemental petition, together with all pertinent documents, shall be forwarded to the Commissioner of Customs for reconsideration of the case.

ANNEX TO REVISED PARTS 171 AND 172

PARALLEL REFERENCE TABLE

(This table shows the relation of sections in revised Part 171 to 19 CFR Part 23.)

Revised section	*Superseded section*
171.0	None
171.1(a)	23.23(d)
171.1(b)	23.23(e)
171.11	23.24(a)
171.11(e)	None
171.12(a)	23.24(a)
171.12(b)	23.23(c)
171.12(c)	23.24(a)
171.13(a)	23.24(a)
171.13(b)	23.24(b)
171.21	23.25(a)
171.22(a)	23.25(b)
171.22(b)	23.25(c)
171.22(c)	23.34 (a) and (b)
171.31	23.25(c)
171.32	23.23(c)
171.33	23.25(d)
171.41	None
171.42	23.24(c)
171.43	23.24(c)
171.44	23.24(d)

(This table shows the relation of sections in revised Part 172 to 19 CFR Chapter I.)

Revised section	*Superseded section*
172.0	None
172.1	None
172.2(a)	25.15(c)
172.2(b)	None
172.11(a)	None
172.11(b)	None
172.12(a)	None
172.12(b)	None
172.12(c)	None
172.21	None
172.21(a)	25.17(g)
172.21(b)	10.39 (c) and (f), 10.92(d), 11.11 (d), 18.8(d), 21.8(c)
172.22(a)	25.17(a)
172.22(b)	25.17(b)
172.22(c)	25.17(c)
172.22(d)	8.59(j)
172.23	None
172.31	25.19
172.32	None
172.33	25.17(h)

[F.R. Doc. 70-15948; Filed, Nov. 30, 1970; 8:45 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

USE OF ANTIBIOTICS IN ANIMALS

In the FEDERAL REGISTER of August 22, 1968 (33 F.R. 11908), the Commissioner of Food and Drugs proposed (1) certain new food additive regulations for certifiable oral antibiotic drugs containing penicillin and streptomycin intended for use in food-producing animals, (2) certain amendments to the antibiotic drug regulations to provide that those antibiotics which were not covered by existing or proposed food additive regulations would not be eligible for certification when intended for use in animals raised for food production, and (3) the revocation of exemptions from certification for antibiotic drugs intended for such use.

The basis upon which such action was proposed is contained in a statement of policy, § 3.25 *Antibiotics used in food-producing animals,* published April 11, 1968 (33 F.R. 5616), which established (1) that all such products are food additives and accordingly may be used only when provided for by an appropriate food additive regulation and (2) that antibiotic preparations, other than those for topical- or ophthalmic-use applications, intended for use in food-producing animals and which are not covered by food additive regulations will be subject to regulatory action within 180 days after publication of the contemplated final orders.

Twenty-eight comments were received in response to the proposal. They have been evaluated and it is concluded that the responses submitted have essentially been previously considered and are discussed in an order published in the FEDERAL REGISTER of May 17, 1969 (34 F.R. 7849), with the following two exceptions: (1) There was opposition to the provisions deleting the exemptions from certification for antibiotic drugs intended for use in animals raised for food production. The Commissioner has considered these comments and has concluded that certification should be required for these drugs in order to permit determination of their safety and efficacy as related to their compliance with the required labeling and standards of identity, strength, quality, and purity. The Commissioner has concluded that a period of 90 days should be provided to permit the preparation and submission of appropriate applications under the provisions of section 512(b) of the Federal Food, Drug, and Cosmetic Act. At 180 days following this publication in the FEDERAL REGISTER, such drugs would become subject to certification. Certification would be an interim measure following which exemptions may be granted on an individual basis under section 512(n) (3) of the act. (2) There was a request that the regulation for streptomycin be revised to provide for the use of potassium penicillin in drinking water alone or in combination with streptomycin in addition to procaine penicillin as was carried in the proposal of August 22, 1968. A review of available information, however, shows a lack of adequate residue data regarding potassium penicillin to provide for the requested use.

The claims provided for the preparations described are on the basis of prior use and may be subject to change upon a determination of their effectiveness by the National Academy of Sciences—National Research Council, Drug Efficacy Study Group. Pending recodification of previously established regulations in Part 121 under regulations to be established under the provisions of section 512(i) of the act, this order is in accordance with § 3.517 *New animal drugs; transitional provisions re section 512 of the act.*

Therefore, the Commissioner concludes on the basis of all the information available to him that the proposed amendments should be promulgated as follows:

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

A. Accordingly, pursuant to the provisions of the act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), in accordance with § 3.517, and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended:

1a. In § 121.256 by revising the section heading, the introductory text, paragraphs (a) and (b), and the introductory text of paragraph (c), and by adding a new table to paragraph (d), as follows:

§ 121.256 Penicillin.

The food additive penicillin may be safely used in accordance with the following prescribed conditions:

(a) Penicillin is the antibiotic substance produced by the growth of *Penicillium notatum* or *Penicillium chrysogenum* or the same antibiotic substance produced by any other means and, for the purposes of this Part 121, refers to penicillin or feed-grade penicillin as the salt specified.

(b) The activity of penicillin is expressed in terms of the weight of the master standard. The quantity of antibiotic permitted in feed is expressed as grams of activity, and in drinking water in terms of units.

(c) Permitted uses of penicillin alone or with certain other additives are described in tabular form in this section, and the tables are to read as follows:

* * * * * *

(d) * * *

TABLE 3—PENICILLIN IN DRINKING WATER

Principal ingredient	Amount per gallon	Combined with—	Amount per gallon	Limitations	Indications for use
1. Penicillin	*Units* 100,000			For chickens; as procaine penicillin; not for use in laying chickens; prepare fresh solution daily; withdraw 1 day before slaughter; as sole source of penicillin.	For treatment of chronic respiratory disease (air-sac infection) and blue comb (nonspecific infectious enteritis).
2. Penicillin	50,000-100,000			do	For prevention of chronic respiratory disease (air-sac infection) and blue comb (nonspecific infectious enteritis).
3. Penicillin	100,000-110,000	Streptomycin.	250-304 mg.	For chickens; as procaine penicillin plus streptomycin sulfate; not for use in laying chickens; prepare fresh solution daily; withdraw 1 day before slaughter; as sole source of penicillin and streptomycin.	For treatment of chronic respiratory disease (air-sac infection) and blue comb (nonspecific infectious enteritis).
4. Penicillin	50,000-100,000	do	125-250 mg.	do	For prevention of chronic respiratory disease (air-sac infection) and blue comb (nonspecific infectious enteritis).
5. Penicillin	100,000-110,000	do	250-304 mg.	For turkeys; as procaine penicillin plus streptomycin sulfate; not for use in laying birds; prepare fresh solution daily; withdraw 3 days before slaughter; as sole source of penicillin and streptomycin.	For treatment of infectious sinusitis and blue comb (nonspecific infectious enteritis).

b. Also in § 121.256(d), by deleting the word "PROCAINE" from the headings of tables 1 and 2.

2. By adding the following new section to Subpart C:

§ 121.321 Streptomycin.

The food additive streptomycin may be safely used in accordance with the following prescribed conditions:

(a) Streptomycin is the antibiotic substance produced by the growth of *Streptomyces griseus* or the same antibiotic substance produced by any other means.

(b) The antibiotic activities authorized are expressed in this section in terms of the appropriate antibiotic standard.

(c) Permitted uses of streptomycin alone or in combination with certain other additives are described in tabular

form in this section and the tables are to be read as follows:

(1) The numbered items establish the required limitations and indications for use for the principal ingredient.

(2) The term "principal ingredient" as used in this section refers to the additive named in the title of this section and is not intended to imply that the ingredient is of greater value than any other additive named in this section.

(d) The additive is used or intended for use as follows:

TABLE 1—STREPTOMYCIN IN DRINKING WATER

1. Streptomycin	0.5–1.5 grams.			For chickens; as streptomycin sulfate; administer not more than 5 days; not for use in laying chickens; prepare fresh solution daily; withdraw 4 days before slaughter; as sole source of streptomycin.	Treatment of chronic respiratory disease (airsac infection); maintenance of weight gains during periods of stress; treatment of blue comb (nonspecific infectious enteritis).
2. Streptomycin	0.5–1.5 grams.			For calves; as streptomycin sulfate; administer not more than 5 days; prepare fresh solution daily; withdraw 2 days before slaughter; as sole source of streptomycin.	Treatment of bacterial diarrhea (scours) of calves.
3. Streptomycin	0.5–1.5 grams.			For swine; as streptomycin sulfate; administer not more than 4 days; prepare fresh solution daily; as sole source of streptomycin.	Treatment of bacterial enteritis (scours) in swine.
4. Streptomycin	250–304 mg.	Penicillin	100,000–119,000 units.	For chickens; as procaine penicillin plus streptomycin sulfate; not for use in laying chickens; prepare fresh solution daily; withdraw 1 day before slaughter; as sole source of penicillin and streptomycin.	For treatment of chronic respiratory disease (airsac infection) and blue comb (nonspecific infectious enteritis).
5. Streptomycin	125–250 mg.	Penicillin	50,000–100,000 units.	For chickens; as procaine penicillin plus streptomycin sulfate; not for use in laying chickens; prepare fresh solution daily; withdraw 1 day before slaughter; as sole source of penicillin and streptomycin.	For prevention of chronic respiratory disease (airsac infection) and blue comb (nonspecific infectious enteritis).
6. Streptomycin	250–304 mg.	Penicillin	100,000–119,000 units	For turkeys; as procaine penicillin plus streptomycin sulfate; not for use in laying birds; prepare fresh solution daily; withdraw 3 days before slaughter; as sole source of penicillin and streptomycin.	For treatment of infectious sinusitis and blue comb (nonspecific infectious enteritis).

(e) To assure safe use, the label and labeling of the additive or combination of additives, or final dosage form prepared therefrom, shall bear in addition to the other information required by the act, the following:

(1) The name of the additive.

(2) A statement of the quantity contained therein.

(3) Adequate directions and warnings for use.

SUBCHAPTER C—DRUGS

PART 146A—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

B. Pursuant to provisions of the act (sec. 512(n); 82 Stat. 350–51; 21 U.S.C. 360(n)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 146a and 146b of the antibiotic drug regulations are amended in the following respects:

1. In § 146a.27, by deleting paragraph (f) and by revising paragraphs (a) and (c)(2) to read as follows:

§ 146a.27 Penicillin tablets.

(a) *Standards of identity, strength, quality, and purity.* Penicillin tablets are tablets composed of sodium penicillin, calcium penicillin, potassium penicillin, crystalline penicillin 0, crystalline phenoxymethyl penicillin, crystalline potassium phenoxymethyl penicillin, benzathine penicillin G, or procaine penicillin, with or without one or more suitable and harmless vitamin substances, buffer substances, diluents, binders, lubricants, colorings, and flavorings. If intended for veterinary use, they may contain one or more suitable sulfonamides. The potency of each tablet is not less than 50,000 units, and if it is less than 100,000 units it is unscored. Its moisture content is not more than 1 percent if it contains sodium penicillin, calcium penicillin, potassium penicillin, or crystalline penicillin 0; not more than 2 percent if it contains procaine penicillin; not more than 3 percent if it contains crystalline phenoxymethyl penicillin; and not more than 8 percent if it contains benzathine penicillin G. If it contains crystalline postassium phenoxymethyl penicillin, its moisture content is not more than 1.5 percent unless the person who requests certification has submitted to the Commissioner information adequate to prove that his drug is stable when it has a moisture content not exceeding 3 percent. Tablets not exceeding 15 millimeters, or not intended only for preparing solutions, shall disintegrate within 1 hour, unless the manufacturer has submitted blood-concentration data adequate to prove that his drug is absorbed satisfactorily from the gastrointestinal tract and such data have been accepted by the Commissioner. In such cases, the time required for the tablets to disintegrate shall not exceed that of the tablets used in such studies. The penicillin used conforms to the standards prescribed for such drug by the regulations in this chapter, except the standards for sterility and pyrogens. Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* (i) Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription" each package shall include information containing directions and warnings adequate for the veterinary use of the drugs by the laity.

(ii) If it contains added vitamins, the labels shall bear the name and quantity of each substance and a statement that such substances are present only for furnishing additional vitamins while animals are eating less feed.

(iii) If it is intended for use in animals raised for food production, it shall also be labeled in accordance with the requirements of regulations established in Part 121 of this chapter and the antibiotic substance shall be that specified in Part 121.

* * * * *

2. By revising § 146a.28(c)(2) to read as follows:

§ 146a.28 Crystalline penicillin G oral suspension, crystalline penicillin G sodium oral suspension, potassium penicillin G oral suspension.

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription" each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement "Warning—Not for use in animals which are raised for food production."

* * * * *

3. By revising § 146a.29(c)(2) to read as follows:

§ 146a.29 Penicillin with aluminum hydroxide gel.

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that

in lieu of the statement "Caution: Federal law prohibits dispensing without prescription" each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement "Warning—Not for use in animals which are raised for food production."

* * * * *

4. By revising § 146a.32(c)(2) to read as follows:

§ 146a.32 Penicillin with vasoconstrictor; penicillin with _____ (the blank being filled in with the established name of the vasoconstrictor).

* * * * *

(c) * * *

(2) *It is packaged for dispensing and it is intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription" each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement "Warning—Not for use in animals which are raised for food production."

* * * * *

5. By revising § 146a.34(c)(2) to read as follows:

§ 146a.34 Tablets aluminum penicillin.

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription" each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement "Warning—Not for use in animals which are raised for food production."

* * * * *

6. By revising § 146a.35(c)(2) to read as follows:

§ 146a.35 Penicillin-sulfonamide powder (calcium penicillin sulfonamide powder, crystalline penicillin sulfonamide powder).

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription" each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and, if it is for other than topical use, the statement "Warning—Not for use in animals which are raised for food production."

* * * * *

7. By revising § 146a.36(c)(2) to read as follows:

§ 146a.36 Penicillin vaginal suppositories.

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription" each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement "Warning—Not for use in animals which are raised for food production."

* * * * *

§ 146a.37 [Amended]

8. By deleting paragraph (f)(3) from § 146a.37 *Buffered crystalline penicillin.*

9. By revising § 146a.38(c)(2) to read as follows:

§ 146a.38 Capsules buffered penicillin with pectin hydrolysate (capsules buffered potassium penicillin with pectin hydrolysate).

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription" each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement "Warning—Not for use in animals which are raised for food production."

* * * * *

10. By revising § 146a.39(c)(2) to read as follows:

§ 146a.39 Capsules procaine penicillin in oil.

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription" each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement "Warning—Not for use in animals which are raised for food production."

* * * * *

11. By revising § 146a.49(c)(2) to read as follows:

§ 146a.49 Ephedrine penicillin tablets.

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription" each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement "Warning—Not for use in animals which are raised for food production."

* * * * *

12. In § 146a.51, by deleting paragraph (f) and by revising paragraphs (a), (b), and (c)(2) to read as follows:

§ 146a.51 Buffered penicillin powder, penicillin powder with buffered aqueous diluent.

(a) *Standards of identity, strength, quality, and purity.* Buffered penicillin powder is a mixture of crystalline penicillin or procaine penicillin and suitable buffer substances, with or without the addition of one or more suitable and harmless diluents, colorings, and flavorings. If intended for human use, it may contain probenecid. If intended for veterinary use, it may contain one or more essential vitamin and mineral substances for nutritive purposes. Penicillin powder with buffered aqueous diluent is a packaged combination of one immediate container of crystalline penicillin or procaine penicillin, with or without suitable and harmless diluents, and one immediate container of an aqueous diluent containing suitable buffer substances and suitable and harmless preservatives, colorings, and flavorings. Its moisture content is not more than 1 percent, except if it contains procaine penicillin its moisture content is not more than 2 percent. The crystalline penicillin used conforms to the requirements of § 146a.24(a) for crystalline penicillin, except subparagraphs (2) and (4) of that paragraph. The procaine penicillin used conforms to the requirements of § 146a.44(a), except subparagraphs (2) and (3) of that paragraph. Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

(b) *Packaging.* In all cases the immediate container of buffered penicillin powder shall be a tight container as defined by the U.S.P. The composition of the immediate container shall be such as will not cause any change in the strength, quality, or purity of the contents beyond any limits therefor in applicable standards, except that minor changes so caused which are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded. Each immediate container may be packaged in combination with a container of a suitable and harmless aqueous vehicle and, if for human use, with or without probenecid.

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* (i) Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without

prescription" each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity.

(ii) If it contains added vitamins or minerals, the labels shall bear the name and quantity of each such substance and a statement that such substances are present only for furnishing additional vitamins and minerals while animals are eating less feed.

(iii) If it is intended for use in animals raised for food production, it shall also be labeled in accordance with the requirements of regulations established in Part 121 of this chapter and the antibiotic substance shall be that specified in Part 121.

* * * * *

13. In § 146a.69 by deleting paragraph (f) and by revising paragraph (c) (2) to read as follows:

§ 146a.69 Benzathine penicillin G oral suspension, benzathine penicillin G for oral suspension (benzathine penicillin G powder).

* * * * *

(c) * * *

(2) *It is packaged for dispensing and it is intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription" each package shall include information containing directions and warnings for the veterinary use of the drug by the laity and the statement "Warning—Not for use in animals which are raised for food production."

* * * * *

14. By revising § 146a.76(c) (1) to read as follows:

§ 146a.76 Penicillin-streptomycin implantation pellets; penicillin-dihydrostreptomycin implantation pellets.

* * * * *

(c) * * *

(1) On the outside wrapper or container and the immediate container:

(i) The batch mark.

(ii) The number of units of penicillin in each pellet of the batch.

(iii) The number of milligrams of streptomycin or dihydrostreptomycin in each pellet of the batch.

(iv) The statement "For veterinary use only."

(v) The statement "Warning—Not for use in animals which are raised for food production."

(vi) The statement "Expiration date ----------," the blank being filled in with the date which is 18 months after the month during which the batch was certified.

* * * * *

§ 146a.88 [Amended]

15. By deleting paragraph (c) from § 146a.88 *Penicillin-streptomycin tablets; penicillin dihydrostreptomycin tablets.*

§ 146a.93 [Amended]

16. By deleting paragraph (e) from § 146a.93 *Penicillin-streptomycin powder veterinary; penicillin-dihydrostreptomycin powder veterinary.*

17. By revising § 146a.95(c) (2) to read as follows:

§ 146a.95 Dibenzylamine penicillin and potassium penicillin powder, buffered.

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement "Warning—Not for use in animals which are raised for food production."

* * * * *

18. By revising § 146a.98(c) (2) to read as follows:

§ 146a.98 Hydrabamine penicillin G oral suspension.

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement "Warning—Not for use in animals which are raised for food production."

* * * * *

19. By revising § 146a.104(c) (2) to read as follows:

§ 146a.104 Phenoxymethyl penicillin for oral suspension; potassium phenoxymethyl penicillin for oral solution.

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement "Warning—Not for use in animals which are raised for food production."

* * * * *

PART 146b—CERTIFICATION OF STREPTOMYCIN (OR DIHYDROSTREPTOMYCIN) AND STREPTOMYCIN- (OR DIHYDROSTREPTOMYCIN-) CONTAINING DRUGS

20. By revising § 146b.104(c) (2) to read as follows:

§ 146b.104 Streptomycin tablets; dihydrostreptomycin tablets.

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* (i) Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity. If it contains bismuth subcarbonate, its label and labeling shall include reference to its use only in cats and dogs.

(ii) If it is intended for use in animals which are raised for food production, it shall also be labeled in accordance with the requirements of regulations established in Part 121 of this chapter and the antibiotic substance shall be that specified in Part 121.

* * * * *

21. By revising § 146b.107(c) (2) to read as follows:

§ 146b.107 Streptomycin-polymyxin-bacitracin tablets.

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement "Warning—Not for use in animals which are raised for food production."

* * * * *

22. By revising § 146b.108(c) (2) to read as follows:

§ 146b.108 Streptomycin syrup; streptomycin in gel (streptomycin oral suspension); dihydrostreptomycin syrup; dihydrostreptomycin in gel (dihydrostreptomycin oral suspension).

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement "Warning— Not for use in animals which are raised for food production."

* * * * *

23. By adding to § 146b.111(c) (1) a new subdivision, as follows:

§ 146b.111 Streptomycin-kaolin-pectin-aluminum hydroxide gel powder veterinary; dihydrostreptomycin-kaolin-pectin-aluminum hydroxide gel powder veterinary.

* * * * *

(c) * * *

(1) * * *

(vi) The statement "Warning—Not for use in animals which are raised for food production."

* * * * *

24. In § 146b.112, by deleting paragraph (f) and by revising paragraph (c) (2) to read as follows:

§ 146b.112 Streptomycin for inhalation therapy; dihydrostreptomycin for inhalation therapy.

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement "Warning—Not for use in animals which are raised for food production."

* * * * *

25. In § 146b.115, by deleting paragraph (f) and by revising paragraphs (a) and (c) (1) to read as follows:

§ 146b.115 Streptomycin sulfate powder oral veterinary; streptomycin sulfate granules oral veterinary; dihydrostreptomycin sulfate powder oral veterinary; dihydrostreptomycin sulfate granules oral veterinary; dihydrostreptomycin hydrochloride powder oral veterinary; dihydrostreptomycin hydrochloride granules oral veterinary.

(a) *Standards of identity, strength, quality, and purity.* Streptomycin sulfate powder oral veterinary, streptomycin sulfate granules oral veterinary, dihydrostreptomycin sulfate powder oral veterinary, dihydrostreptomycin sulfate granules oral veterinary, dihydrostreptomycin hydrochloride powder oral veterinary, and dihydrostreptomycin hydrochloride granules oral veterinary are streptomycin sulfate veterinary, dihydrostreptomycin sulfate veterinary, or dihydrostreptomycin hydrochloride veterinary, with or without one or more suitable and harmless diluents and stabilizing agents, with or without one or more suitable sulfonamides, and with or without one or more essential vitamin and mineral substances for nutritive purposes. Its potency is not less than 3.75 grams per pound. Its moisture content is not more than 7 percent. The streptomycin or dihydrostreptomycin used conforms to the standards prescribed by § 146b.114(a). Each other ingredient used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * *

(c) * * *

(1) On the outside wrapper or container and the immediate container:

(i) The batch mark.

(ii) The number of milligrams of streptomycin or dihydrostreptomycin per gram and the number of grams in the immediate container.

(iii) If it contains one or more sulfonamides, the name and quantity of each such ingredient.

(iv) The statement "Expiration date ----------," the blank being filled in with the date that is 12 months (if its potency is less than 150 grams per pound) or 36 months (if its potency is 150 grams or more per pound) after the month during which the batch was certified, except that if the person who requests certification has submitted to the Commissioner results of tests and assays that show that such drug as prepared by him is stable for 24 months, 36 months, 48 months, or 60 months, such date may be used for such drug.

(v) The statement "For oral veterinary use only."

(vi) If it contains added vitamins or minerals, the name and quantity of each such substance and a statement that such substances are present only for furnishing additional vitamins and minerals while animals are eating less feed.

(vii) If it is intended for use in animals raised for food production, it shall also be labeled in accordance with the requirements of regulations established in Part 121 of this chapter and the antibiotic substance shall be only that specified in Part 121.

(viii) The statement "For manufacturing use," "For repacking," or "For manufacturing use or repacking," when packaged for repacking or for use as an ingredient in the manufacture of another drug, as the case may be.

* * * * *

26. By revising § 146b.118(c) (2) to read as follows:

§ 146b.118 Streptomycin-penicillin-sulfonamide with kaolin and pectin; dihydrostreptomycin-penicillin-sulfonamide with kaolin and pectin.

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph except that in lieu of the statement "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement "Warning—Not for use in animals which are raised for food production."

* * * * *

27. In § 146b.119, by deleting paragraph (f) and by revising paragraph (a) and adding to paragraph (c) two new subparagraphs, as follows:

§ 146b.119 Streptomycin hydrochloride solution oral veterinary; streptomycin sulfate solution oral veterinary.

(a) *Standards of identity, strength, quality, and purity.* Streptomycin hydrochloride solution oral veterinary and streptomycin sulfate solution oral veterinary are aqueous solutions of streptomycin hydrochloride or streptomycin sulfate, with one or more suitable and harmless preservatives and with or without one or more essential vitamin and mineral substances for nutritive purposes. The drug may also contain one or more suitable and harmless buffer substances and stabilizing agents. Its potency is not less than 250 milligrams per milliliter. Its pH is not less than 4 and not more than 7. It is nontoxic. Each preservative, buffer substance, and stabilizing agent used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * *

(c) * * *

(6) If it contains added vitamins or minerals, the name and quantity of each such substance and a statement that such substances are present only for furnishing additional vitamins and minerals while animals are eating less feed.

(7) If it is intended for animals which are raised for food production, it shall also be labeled in accordance with the requirements of regulations established in Part 121 of this chapter and the antibiotic substance shall be that specified in Part 121.

* * * * *

28. By adding a new subparagraph to § 146b.123(b), as follows:

§ 146b.123 Streptomycin-sodium sulfathiazole solution veterinary; dihydrostreptomycin-sodium sulfathiazole solution veterinary.

* * * * *

(b) * * *

(4) The statement "Warning—Not for use in animals which are raised for food production."

* * * * *

29. By revising § 146b.125 to read as follows:

§ 146b.125 Streptomycin-dihydrostreptomycin for inhalation therapy veterinary.

Streptomycin-dihydrostreptomycin for inhalation therapy veterinary conforms to all requirements and is subject to all procedures prescribed by § 146b.112 for streptomycin for inhalation therapy veterinary and dihydrostreptomycin for inhalation therapy veterinary, except that it is a mixture of equal parts of streptomycin and dihydrostreptomycin.

30. By revising § 146b.126(c) (2) to read as follows:

§ 146b.126 Streptomycin-neomycin powder; dihydrostreptomycin-neomycin powder.

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without

prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement "Warning—Not for use in animals which are raised for food production."

* * * * *

31. In § 146b.127(c), by deleting subparagraph (2) and by adding to subparagraph (1) a new subdivision, as follows:

§ 146b.127 Streptomycin solution for inhalation therapy veterinary; dihydrostreptomycin solution for inhalation therapy veterinary.

* * * * *

(c) * * *

(1) * * *

(vi) The statement "Warning—Not for use in animals which are raised for food production."

* * * * *

§ 146b.129 [Revoked]

32. By revoking § 146b.129 *Streptomycin sulfate-dihydrostreptomycin sulfate powder oral veterinary.*

Effective date. This order shall become effective 30 days after its publication in the FEDERAL REGISTER.

(Secs. 512(i), (n), 82 Stat. 347, 350–51; 21 U.S.C. 360b(i), (n))

Dated: November 16, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–15992; Filed, Nov. 30, 1970; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 70–WA–34]

PART 73—SPECIAL USE AIRSPACE

Extension of Temporary Restricted Area

On October 2, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 15405) stating that the Federal Aviation Administration was considering an amendment to Part 73 of the Federal Aviation Regulations which would extend the time of use of a temporary restricted area, White Sands Proving Grounds, N. Mex., R–5116A.

Interested persons were afforded an opportunity to participate in the proposed rule through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 30, 1970, as hereinafter set forth.

In § 73.51 (35 F.R. 13118) R–5116A White Sands Proving Grounds, N. Mex., Time of Designation is amended by deleting "December 31, 1970," and "March 31, 1971," is substituted therefor.

(Sec. 307(a); Federal Aviation Act of 1958, 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 25, 1970.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 70–16061; Filed, Nov. 30, 1970; 8:47 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER–656; Amdt. 15]

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

On-Route Charters; Interpretation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of November 1970.

The question has arisen as to whether off-route charters performed for the Department of Defense are to be treated as part of a carrier's base revenue plane-miles for the purpose of determining the quantity of off-route charters allowable under Part 207 of the Board's economic regulations.[1]

Under the definitions in Part 207, base revenue plane-miles include miles performed in on-route charter trips. "On-route" is in turn defined as: "* * * service performed by an air carrier between points between which said carrier is authorized to provide service pursuant to either its certificate of public convenience and necessity or exemption authority * * *."

The specified "exemption authority" relates to an exemption from section 401 (a) of the Act (the certificate provision) authorizing point-to-point transportation. The exemptions for MAC charters provided by Part 288 of the economic regulations are from section 403 of the Act (the tariff provisions) rather than from section 401(a). Accordingly, unless MAC charters are operated between certificated points or pursuant to an exemption authorizing point-to-point transportation, the charters are off-route and the miles performed in such off-route charters were never intended to be included in the on-route charter component of base revenue plane-miles. Accordingly, the Board has determined to amend the regulation to clarify this matter.

Since this amendment is an interpretative rule, notice and public procedure hereon are unnecessary, and the rule shall be effective immediately.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 207 of the economic regulations (14 CFR Part 207) effective November 24, 1970, as follows:

Amend § 207.1 by inserting the following note after the definition of "On-route" to read as follows:

§ 207.1 Definitions.

* * * * *

"On-route" * * *

NOTE: Charter services for the Department of Defense conducted between points between which the carrier is not otherwise authorized to provide service by its certificate of public convenience and necessity or exemption authority naming such points are not regarded as "on-route."

* * * * *

(Secs. 204, 401, 403, 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754, 759, 766, as amended; 49 U.S.C. 1324, 1371, 1373 and 1377)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70–16072; Filed, Nov. 30, 1970; 8:48 a.m.]

[1] 14 CFR Part 207.
[2] § 207.1.

Title 30—MINERAL RESOURCES

Chapter V—Interim Compliance Panel (Coal Mine Health and Safety)

SUBCHAPTER B—COAL MINE SAFETY

PART 503—PERMITS FOR NONCOMPLIANCE WITH THE ELECTRIC FACE EQUIPMENT STANDARD—NONGASSY MINES BELOW THE WATER-TABLE

Section 305 of the Federal Coal Mine Health and Safety Act of 1969, which applies to underground coal mines, provides that the Interim Compliance Panel may issue permits for noncompliance with the electric face equipment standards specified therein. This Part 503, reading as set forth below, is promulgated to prescribe the requirements which must be met by each applicant for an initial permit for noncompliance with the electric face equipment standard prescribed for underground coal mines in section 305(a)(1)(D) of the Act and for renewals of such permit. In addition, it sets forth the requirements which must be met by each person requesting a public hearing with respect to the issuance of any permit or renewal thereof.

This Part 503 shall become effective upon its publication in the FEDERAL REGISTER.

Sec.
503.1 Application of part.
503.2 Definitions.
503.3 Filing procedures.
503.4 Contents of applications for permits.
503.5 Issuance of initial permits.
503.6 Applications for renewal permits.
503.7 Issuance of renewal permits.
503.8 Requests for hearing.
503.9 Filing of requests for hearing—contents.

AUTHORITY: The provisions of this Part 503 issued under sec. 508, Public Law 91–173, 83 Stat. 803.

§ 503.1 Application of part.

This part applies to applications for permits for noncompliance and renewals thereof submitted in accordance with the provisions of sections 305(a)(6) and 305(a)(7) of the Coal Mine Health and Safety Act of 1969, and to request for hearings conducted with respect to such applications. A permit for noncompliance may be issued to an operator only for electric face equipment used in an underground coal mine which has never been classified as gassy under any provision of law and which is located below the watertable.

§ 503.2 Definitions.

As used in this part:

(a) "Act" means the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173);

(b) "Panel" means the Interim Compliance Panel established by section 5 of the Act;

(c) "Operator" means any owner, lessee, or other person who operates, controls, or supervises a coal mine and who files an application with the Panel for an initial or renewal permit for noncompliance with the electrical equipment standard set forth in section 305(a)(1)(D) of the Act;

(d) "Permit" means an initial permit for noncompliance or a subsequent renewal thereof issued by the Panel to an operator of a nongassy coal mine located below the watertable entitling the operator to use an item of nonpermissible electric face equipment in connection with mining operations in such mine for the period of time specified in the permit.

(e) "Electric face equipment" means:

(1) Electrical equipment with an electrical rating exceeding 2,250 watts (3 horsepower) which is taken into or used inby the last open crosscut, and

(2) All electrical rock dusting equipment which is taken into or used inby the last open crosscut;

(f) "Below the watertable," as it applies to a coal mine means an underground coal mine any part of which is operated in one or more coal seams located below the elevation of the surface of a river or a tributary of a river into which a local surface water system naturally drains;

(g) "Permissible" or "permissible status" means equipment which has been approved as permissible by the U.S. Bureau of Mines.

(h) "Application" means a request for a permit for noncompliance, or renewal thereof, filed with the Panel in accordance with §§ 503.3, 503.4, and 503.6.

§ 503.3 Filing procedures.

(a) A separate application on ICP Form 2 shall be filed for each coal mine. The application shall be accompanied by ICP Form 2(a), Statement of Electric Face Equipment Information, for each item of equipment for which a permit is requested. The original and one copy of each form shall be filed on or before March 1, 1971, with the Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, DC 20006, in the form and content prescribed in § 503.4. Applications filed by mail shall be mailed so as to bear a postmark date no later than March 1, 1971.

(b) The original of each ICP Form 2 and 2(a) shall be affirmed and signed by the operator.

(c) At the time an application is mailed or delivered to the Panel, the operator shall post on the mine bulletin board a notice that such application has been filed and that the complete application, ICP Forms 2 and 2(a) and all attachments, are available at the mine office for inspection by any interested person during the usual working hours.

(d) A copy of each application, ICP Forms 2 and 2(a) and all attachments, received by the Panel will be available at the office of the Panel in Washington, D.C., for inspection by any person during usual working hours.

(e) Application forms may be obtained from the Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, DC 20006.

§ 503.4 Contents of applications for permits.

(a) Each Noncompliance Permit Application (ICP Form 2) shall contain:

(1) The name, address, and telephone number of the mine with respect to which such permit is requested; the name, address, and telephone number of the operator; and the name of the owner;

(2) The name and address of a representative of the miners of such mine;

(3) A statement that notice of the application has been posted on the bulletin board of such mine;

(4) A statement whether or not the mine has ever been classified as gassy under any provision of Federal or State law;

(5) A statement whether or not such mine is below the water table; and

(6) A list of all nonpermissible electric face equipment for which a permit is requested, identified by type and manufacturer's serial number or other permanently marked identification number.

(b) Each ICP Form 2(a), Statement of Electric Face Equipment Information, shall contain:

(1) A statement by the operator that he is unable to comply with paragraph (1)(D) of section 305(a), Public Law 91-173;

(2) A description by type (e.g., loader, cutter, etc.), model, manufacturer, and manufacturer's serial number or permanently marked identification number, of a single item of electric face equipment as defined in § 503.2 for which a permit is requested;

(3) A statement whether or not this item of equipment was nonpermissible and was being used in connection with mining operations in the mine on March 30, 1970;

(4) A statement whether or not this item of equipment is being used in connection with mining operations in the mine on the date of this application;

(5) A statement whether or not the electric rating of this equipment exceeds 2,250 watts (3 horsepower) or a statement that it is rock dusting equipment;

(6) A statement whether or not this item of equipment has ever been permissible; and

(7) A statement of steps taken to achieve compliance with the electrical equipment requirement of the Act since March 30, 1970, and a plan setting forth a schedule for achieving compliance for the item of equipment for which the permit is sought and describing the means and methods to be employed. This plan must contain information responsive to one of the following subdivisions as applicable:

(i) If the operator plans to replace the item of equipment for which a permit is requested with permissible equipment, he must furnish the name of the firm from which the replacement equipment will be obtained and the scheduled date of delivery. A copy of the contract or order must be submitted to satisfy the requirements of this subparagraph.

(ii) If the operator plans to convert to permissible status the item of equipment for which a permit is requested, he must furnish the name of the firm which will perform the conversion and the date upon which the conversion is scheduled for completion. A copy of the contract or order must be submitted to fulfill the requirements of this subparagraph. In the event that the operator plans to use his own employees to convert this item of equipment to permissible status, he must furnish a copy of each contract or order for component parts and materials, the scheduled dates when these parts and materials will be delivered, and an estimated date when the conversion to permissible status will be completed.

(iii) If no specific arrangements to replace the item with permissible equipment or to convert the item to permissible status have been made before the date of the application, the operator shall provide a statement in detail of the actions taken between March 30, 1970, and the date of the application to make arrangements for the replacement with permissible equipment or the conversion of the equipment to permissible status, and a statement describing the specific steps which will be taken by the operator to replace or convert this item of equipment to permissible status. The description of specific steps to be taken shall include the names of firms which will be contacted to obtain replacement equipment, conversion work, or component parts and materials, and shall include the dates on which such firms will be contacted.

(c) All applications timely filed in accordance with the provisions of this part shall be processed by the Panel in the order in which completed applications are received. Each operator shall, upon request by the Panel, submit such additional information as the Panel considers necessary to make its determination, including, but not limited to, evidence in support of representations made in connection with the application.

§ 503.5 Issuance of initial permits.

(a) The Panel will issue initial permits for equipment based upon applications which are timely filed and complete in all material respects in accordance with §§ 503.3 and 503.4.

(b) In order to qualify for the issuance of a permit the operator must show in his application:

(1) That the mine has never been classified as gassy under any provision of Federal or State law and that it is below the watertable;

(2) That the item of electric face equipment for which a permit is sought was, at the time of the application and on March 30, 1970, nonpermissible and being used by the operator in connection with mining operations in the coal mine to which the application pertains;

(3) That the electric rating of such equipment exceeds 2,250 watts (3 horsepower) or that such equipment is rock dusting equipment; and

(4) That steps have been taken to achieve compliance with the provisions of section 305(a)(1)(D) of the Act since March 30, 1970, and that the operator has adopted an adequate plan including a schedule for achieving compliance by replacement of such nonpermissible equipment with permissible equipment or by conversion of such nonpermissible equipment to permissible status.

(c) Each initial permit will be issued for the period specified by the Panel, but in no case for more than 1 year. Each permit will specify the individual item of equipment which the operator will be entitled to use in a nonpermissible status.

(d) The permit and one copy will be mailed to the operator at the address specified in the application. A copy of the permit shall immediately be posted on the bulletin board of the affected mine by the operator or his agent.

(e) The Panel shall immediately mail a copy of any permit granted under this section to a representative of the miners of the mine to which it pertains, and to the public official or agency of the State charged with administering State laws relating to coal mine health and safety in such mine.

§ 503.6 Applications for renewal permits.

(a) To be considered by the Panel, every application for a renewal permit must:

(1) Be filed with the Panel not more than 90 days nor less than 30 days prior to the expiration date of a permit or renewal;

(2) Be submitted on the forms and in the manner prescribed in §§ 503.3 and 503.4, specifically setting forth new plans, if any, and the actions which have been taken to achieve compliance since the date of filing the previous application for this item of equipment; and

(3) Certify that the item of equipment has not received a major overhaul on or after March 30, 1971, or if it has, the operator shall furnish a copy of a written opinion by the Secretary of the Interior or his authorized representative stating that such equipment or replacement parts were not available at the time of such major overhaul to convert the item to permissible status.

(b) When an application for a renewal of a permit for noncompliance is received, the Panel shall cause to be published in the FEDERAL REGISTER a notice giving any interested person an opportunity to file with the Panel a request for a public hearing.

(c) On or before the 15th day after publication of notice in the FEDERAL REGISTER that an application for renewal has been received, any interested person may file pursuant to the provisions of § 503.9 a request for a public hearing.

(d) After public hearing, or if no hearing has been requested pursuant to paragraph (c) of this section, the Panel shall make a determination on the merits of the application for a renewal permit.

§ 503.7 Issuance of renewal permits.

(a) The Panel may renew a permit when an application for renewal has been timely filed and is complete in all material respects in accordance with § 503.6.

(b) In order to qualify for the issuance of a renewal permit, an operator must provide information in his application which will enable the Panel to determine that despite diligent efforts he will be unable to comply with the provisions of section 305(a)(1)(D) of the Act on or before the expiration date of his existing permit. The operator must also show in his application that steps have been taken to achieve compliance since the date of filing the previous application for this item of equipment and that he has an adequate plan which includes a schedule for achieving compliance by replacement of such nonpermissible equipment with permissible equipment or by conversion of such nonpermissible equipment to permissible status.

(c) Each renewal permit will be issued for the period specified by the Panel, but in no case for a period longer than 1 year. The period of noncompliance authorized by permit shall not extend beyond December 30, 1973. Each permit will specify the individual item of equipment which the operator will be entitled to use in a nonpermissible status.

(d) The permit and one copy will be mailed to the operator at the address specified in the application. A copy of the renewal permit shall immediately be posted on the bulletin board of the affected mine by the operator or his agent.

(e) The Panel shall immediately mail a copy of any renewal permit granted under this section to a representative of the miners of the mine to which it pertains and to the public official or agency of the State charged with administering State laws relating to coal mine health and safety in such mine.

§ 503.8 Requests for hearing.

Hearings pursuant to the Practice and Procedure for Hearings regulation of the Interim Compliance Panel (Part 505 of this chapter (35 F.R. 11296, July 15, 1970)) will be granted:

(a) To any person interested in an application including the operator or a representative of the miners of an affected mine aggrieved by the Panel's decision on an application for an initial permit where sufficient request for hearing meeting the requirements of § 503.9 is filed within 15 days after the date of the mailing of the initial permit by the Panel;

(b) To any person interested in an application for a renewal permit including the operator or a representative of the miners of an affected mine who files a sufficient request meeting the requirements of § 503.9 within 15 days after a notice of opportunity for public hearing is published in the FEDERAL REGISTER pursuant to § 503.6 (b) and (c); and

(c) To an operator who files a sufficient request for hearing in those instances where no hearing has been held pursuant to paragraph (b) of this section. This request must meet the requirements of § 503.9 and be filed within 15 days after the date of mailing by the Panel of its decision on the application for a renewal permit.

§ 503.9 Filing of requests for hearing—contents.

(a) Requests for public hearings shall be filed in triplicate with the Panel. If such a request is made by a person other than the operator, the person making the request shall serve a copy of the request upon the operator.

(b) Requests for hearings shall be in writing, signed by the person making the request and shall:

(1) State the interest in the application or in the decision of the Panel, of the person making the request;

(2) State whether the person making the request seeks the issuance, denial, or modification of the permit; and

(3) Allege specific facts which are claimed to raise a substantial issue, and which if established at the hearing, would result in the issuance, denial, or modification of the permit.

Dated: November 25, 1970.

DANIEL N. LONGAKER,
Acting Chairman,
Interim Compliance Panel.

[F.R. Doc. 70-16059; Filed, Nov. 30, 1970; 8:47 a.m.]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-64; Amdt. 171-8]

PART 171—GENERAL INFORMATION AND REGULATIONS

Special Permits; Standard Requirements and Conditions

The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to codify the standard requirements that

appear in special permits issued by the Board under § 170.13.

49 CFR Part 171 is amended as follows:

(A) In the table of contents § 171.6 is added to read as follows:

Sec.
171.6 Special permits; standard requirements and conditions.

(B) Section 171.6 is added to read as follows:

§ 171.6 Special permits; standard requirements and conditions.

(a) Each holder of a special permit shall comply with all requirements of Parts 170–189 of this chapter except as specifically provided by the terms of the special permit.

(b) Unless otherwise specified in the special permit, each shipment made under special permit shall comply with the following:

(1) The outside of each package must be plainly and durably marked "DOT SP" followed by the number assigned. On portable tanks, cargo tanks, and tank cars, such markings must be in letters at least 2 inches high on a contrasting background.

(2) Each shipping paper issued in connection with any shipment made under a special permit shall bear the notation "DOT Special Permit No." and the number assigned, following the entries required by § 173.427 of this chapter.

(3) Each holder of a special permit shall furnish a summary of experience to the Hazardous Materials Regulations Board before the date of expiration of the permit and when any amendment to the special permit is requested. The holder shall include in the summary the approximate number of packages shipped, and the number of packages involved in any loss of contents, including loss by venting when transporting a compressed or cold temperature gas.

(4) Whenever a permit issued to a shipper contains special carrier requirements, the shipper shall furnish a copy of the permit to the carrier.

(c) Each permit is subject to suspension or revocation by the Hazardous Materials Regulations Board before its expiration date.

This amendment imposes no added burden on any person. It removes the necessity to repeat standard requirements in all permits, as has been done up to this time. Therefore, public notice and procedure thereon is unnecessary and therefore the amendment may become effective in less than 30 days. This becomes effective upon publication in the FEDERAL REGISTER.

(Secs. 831–835, title 18, U.S.C.; sec. 9, Department of Transportation Act (49 U.S.C. 1657))

Issued in Washington, D.C., on November 24, 1970.

C. R. BENDER,
Admiral, U.S. Coast Guard, Commandant.

CARL V. LYON,
Acting Administrator, Federal Railroad Administration.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety, Federal Highway Administration.

[F.R. Doc. 70-16043; Filed, Nov. 30, 1970; 8:46 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER B—PERSONNEL: MILITARY AND CIVILIAN

PART 67—IDENTIFICATION CARDS FOR ISSUE TO THE MEMBERS OF THE ARMED FORCES OF THE U.S.

PART 68—UNIFORMED SERVICES IDENTIFICATION AND PRIVILEGE CARD

PART 88—RECOUPMENT OF REENLISTMENT BONUS (MILITARY)

SUBCHAPTER M—MISCELLANEOUS

PART 269—IMPLEMENTATION OF THE PRESIDENT'S STANDARDS OF CONDUCT FOR EMPLOYEE ORGANIZATIONS AND CODE OF FAIR LABOR PRACTICES

PART 274—VOLUNTARY ALLOTMENTS FOR PAYMENT OF DUES TO EMPLOYEE ORGANIZATIONS

Codification of the following parts has been discontinued, effective immediately: Parts 67, 68, 88, 269, 274.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

[F.R. Doc. 70-16041; Filed, Nov. 30, 1970; 8:45 a.m.]

PART 244—HONORARY AWARDS TO PRIVATE CITIZENS AND ORGANIZATIONS

The Deputy Secretary of Defense approved the following on November 16, 1970:

Sec.
244.1 Purpose.
244.2 Applicability and scope.
244.3 Policy.
244.4 Department of Defense component awards.
244.5 Department of Defense awards.
244.6 Presidential awards.

AUTHORITY: The provisions of this Part 244 issued under sec. 202, 76 Stat. 517, 10 U.S.C. 133; section 301, 80 Stat. 379, 5 U.S.C. 301.

§ 244.1 Purpose.

This part establishes policies, eligibility criteria, and procedures to be observed by Department of Defense components in recognizing or recommending to the Secretary of Defense the recognition of private citizens or organizations for significant achievements which have benefited one or more Department of Defense components or the Department of Defense as a whole.

§ 244.2 Applicability and scope.

The provisions of this part apply to all components of the Department of Defense (Military Departments, Defense Agencies, and the Office of the Secretary of Defense).

§ 244.3 Policy.

(a) *General.* Appropriate recognition will be granted to private citizens, groups, or organizations which contribute significant assistance or support to DoD functions, services or operations for the purpose of (1) demonstrating the interest of Department of Defense management in improving efficiency and effectiveness, and (2) encouraging citizens and organizations in their efforts to assist in the accomplishment of Department of Defense missions.

(b) *Eligibility.* (1) Any person, group, or organization, except those described in subparagraph (2) of this paragraph, may be considered for recognition under the provisions of this part on the basis of a significant contribution to the Department of Defense performed as a public service. Such contributions may consist of exemplary service in an advisory capacity to a Department of Defense committee, program, or project; direct assistance to a Department of Defense component through actions or useful ideas which are beneficial in eliminating or minimizing problems or otherwise contributing to mission accomplishment; assistance through the cooperative use of facilities, equipment, or manpower; courageous or heroic actions in support of a Department of Defense activity or mission; or other actions resulting in significant benefits to the Department.

(2) The following are ineligible for recognition under this part:

(i) Military and civilian personnel of the Department of Defense who are eligible for recognition in accordance with DoD Directive 5120.16, "Department of Defense Incentive Awards Program: Policies and Standards," June 20, 1969,[1] and applicable Department of Defense and Military Department regulations on awards and decorations.

(ii) Persons or organizations having a commercial or profit-making relationship with the Department of Defense or a Department of Defense component,

[1] Filed as part of original. Single copies of this issuance may be obtained by writing the Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Attention: Code 300.

unless it is shown that the contribution is substantially beyond that specified or implied within the terms or contract establishing the relationship, and it is clearly in the public interest.

(3) Honorary awards under this part shall not be granted routinely to successive individuals or organizations performing the same service. Awards shall be recommended and approved only after consideration of the significance and merits of the contribution made in each separate case. Prior to submitting nominations, nominating officials should ascertain that presentation of the award would not embarass the Department of Defense.

(c) *Letters of appreciation.* The more modest contributions of private citizens or groups to Department of Defense functions or operations should also be recognized. Letters of appreciation may and should be issued by officials at appropriate levels in recognition of service or assistance considered worthy of such an expression even though not warranting an award under this part.

§ 244.4 Department of Defense component awards.

(a) Each Department of Defense component shall establish at least two levels of honorary awards for citizens' achievements, consisting of:

(1) An award to be granted by the head of the component for contributions of major significance to the component as a whole;

(2) An award authorized for issuance at a designated lower level for contributions of more limited scope or impact.

(b) Department of Defense components may establish other awards for private citizens or organizations as they deem appropriate, subject to the policies set forth in § 244.3.

(c) Awards granted by heads of Department of Defense components may take the form of suitably designed medals, plaques and/or certificates. Lower level awards will normally consist of certificates of commendation or appreciation.

(d) DOD components will develop eligibility criteria based on this Part and Federal Personnel Manual, chapter 451, subchapter 3–12, for each award level, including guidelines to assist in identifying citizen/organizational assistance and contributions of extremely significant or exceptional benefit which may warrant consideration for the Department of Defense Medal for Distinguished Public Service or the Department of Defense Meritorious Award (see § 244.5 (a) and (b)).

(1) In determining which level of award is most appropriate, consideration shall be given to the scope, magnitude, impact, and over-all significance of the service performed.

(2) Individuals recommended for the Department of Defense Medal for Distinguished Public Service shall not be given a component level award for the same achievement unless the higher level award is disapproved.

(e) Individual DOD component committees shall be established to review recommendations for (1) awards to be granted by heads of Department of Defense components, and (2) nominations for Department of Defense level awards.

(f) Department of Defense components shall ensure appropriate publicity in announcing and presenting awards.

§ 244.5 Department of Defense awards.

(a) *Department of Defense Medal for Distinguished Public Service.* (1) The Department of Defense Medal for Distinguished Public Service shall consist of a citation signed by the Secretary of Defense, a medal and a rosette.

(2) To be eligible for this award, the nominee shall be a civilian:

(i) Who does not derive his principal livelihood from Federal Government employment;

(ii) Who at any time since enactment of the National Security Act in 1947 (*a*) has performed exceptionally meritorious service of significance to the Department of Defense as a whole, or (*b*) has performed meritorious service of such exceptional significance to a Department of Defense component or function that recognition at the component level is deemed insufficient; and

(iii) Whose service or assistance was performed at considerable personal sacrifice and inconvenience and was motivated by patriotism, good citizenship, and a sense of public responsibility.

(3) Nominations shall be submitted through heads of DOD components, the Director of Defense Research and Engineering, or Assistant Secretaries of Defense, as appropriate, to the Assistant Secretary of Defense (Administration).

(i) Documentation shall be included giving factual evidence that a highly significant service has been provided to the Department of Defense.

(ii) A statutory level committee convened by the Secretary of Defense will review each nomination and may either recommend the granting of the medal or disapprove the nomination.

(4) Only the Secretary of Defense may approve the granting of this medal. He may (i) approve its awarding to a nominee recommended by the review committee or (ii) authorize its granting to any other deserving individual selected by him on his own initiative.

(5) Upon the approval or authorization of the medal, the Assistant Secretary of Defense (Administration) will notify the Assistant Secretary of Defense (Public Affairs) who will insure that presentations of the medal are given appropriate public affairs support.

(6) The Department of Defense Medal for Distinguished Public Service may be awarded posthumously and presented to the next of kin in the following order:

(i) Widow or widower.

(ii) Eldest son.

(iii) Eldest daughter.

(iv) Father.

(v) Mother.

(7) Medals will normally be presented either by the Secretary or Deputy Secretary of Defense or by the head of the Department of Defense component or Assistant Secretary of Defense submitting the nomination.

(8) The Assistant Secretary of Defense (Administration) shall maintain records of all nominations and their disposition and provide any administrative support required by the review committee established by the Secretary.

(b) *Department of Defense Meritorious Award.* (1) The Department of Defense Meritorious Award shall consist of a certificate signed by the Secretary of Defense.

(2) It may be granted to organizations (including corporations, associations, and other groups) for outstanding contributions to the national defense effort involving the material furtherance of an established Department of Defense program and requiring considerable effort on the part of the organization concerned in the planning and execution of the service rendered. This award will not be used to recognize the efforts of industrial organizations which meet or exceed Department of Defense production quotas.

(3) Recommendations with factual justification may be submitted by heads of Department of Defense components, the Director of Defense Research and Engineering, Assistant Secretaries of Defense, and the chairman of any OSD board, committee, or council.

(4) Recommendations will be transmitted to the Assistant Secretary of Defense (Public Affairs) who will (i) obtain the advice of and coordinate his efforts with officials and agencies within and outside the Department of Defense as required, and (ii) transmit his comments on the appropriateness of the recommendation to the Secretary of Defense.

(5) Under no circumstances will organizations be advised that they are under consideration for this award.

(6) Upon approval, certificates will normally be transmitted to the recommending official for presentation to recipients.

(7) The Assistant Secretary of Defense (Public Affairs) will maintain records on all recommendations and disposition thereof and will provide appropriate public affairs support in the award process.

(c) *Awards to entertainers and sponsors of entertainment units.* Procedures and criteria for such awards are set forth in the DoD Instruction 1330.13, "Armed Forces Professional Entertainment Program Overseas," March 25, 1970.[1]

§ 244.6 Presidential awards.

(a) *Presidential Medal of Freedom.* (1) The Presidential Medal of Freedom may be awarded in two degrees to any person who has made an especially meritorious contribution to (i) the security or national interests of the United States, or (ii) world peace, or (iii) cultural or other significant public or private endeavors.

[1] Filed as part of original. Single copies of this issuance may be obtained by writing the Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Attention: Code 300.

(2) Criteria for this award are set forth in Executive Order 9586 (3 CFR Part 410).

(b) *Presidential Citizens Medal.* (1) This medal may be bestowed upon any citizen of the United States who has performed exemplary deeds of service for his country or his fellow citizens.

(2) Criteria for this award are set forth in Executive Order 11494 (34 F.R. 1891).

(c) *Procedure.* Nominations for either Presidential award originating within the Department of Defense will be submitted with full justification by heads of Department of Defense components, the Director of Defense Research and Engineering, or Assistant Secretaries of Defense, as appropriate, to The Special Assistant to the Secretary of Defense, who will provide a recommendation to the Secretary as to whether or not the nomination should be referred to the President.

(d) *Records.* The Assistant Secretary of Defense (Manpower and Reserve Affairs) shall maintain records on all recommendations and disposition of Presidential award nominations originating in the Department of Defense.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

[F.R. Doc. 70-15997; Filed, Nov. 30, 1970; 8:45 a.m.]

Chapter XIV—Renegotiation Board

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1480—AVAILABILITY AND CONTROL OF RENEGOTIATION RECORDS AND INFORMATION

Copies of Records; Fees or Charges

Section 1480.12 *Copies of records; fees or charges* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1480.12 Copies of records; fees or charges.

(a) Upon request, the Board will furnish a copy or copies of any record made available pursuant to this part, except records published in the FEDERAL REGISTER and offered for sale by the Superintendent of Documents, Government Printing Office (see § 1480.4).

(b) There shall be a charge of 25 cents for each copy of each page of any record furnished pursuant to this part, with a minimum charge of $2. Such charge shall be deemed to include the cost of labor and machine time in making the copy so furnished. An additional charge of $2.50 will be made for furnishing an authenticated copy of any record.

(c) In view of the time and expense that may be involved in locating a requested record, or in determining that a requested record cannot be located, or in deleting exempt information or identifying details in order to prepare a requested record for inspection and copying, there shall be a charge for such services by clerical personnel (GS-9 or lower) at a rate of $4 per person per hour and by professional personnel (GS-10 or higher) at a rate of $7 per person per hour, except that there shall be no charge if the performance of such services takes less than 15 minutes.

(d) Persons may inspect and copy records by their own means in the principal office of the Board without charge, except for any search or deletion charges payable pursuant to this section.

(e) There shall be no charge for the making or authentication of copies of records required for use by other agencies of the Government.

(f) The Board shall be entitled to waive any fees or charges prescribed in this part in any instance in which the Board, in its discretion, determines such waiver to be appropriate in the interest of its program.

(Sec. 109, 65 Stat. 22; 50 U.S.C.A., App. sec. 1219)

Dated: November 25, 1970.

LAWRENCE E. HARTWIG,
Chairman.

[F.R. Doc. 70-16065; Filed, Nov. 30, 1970; 8:47 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter VI—Bureau of Domestic Commerce, Department of Commerce

[BDC Notice 3; Nov. 30, 1970]

BDC NOTICE 3—DESIGNATION OF BDC ACTIONS TO BE TAKEN UNDER THE AUTHORITY OF THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

This notice is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended and extended. In the formulation of this notice, consultation with industry representatives was rendered impracticable because the notice affects many different industries.

Section 1 What this notice does.

This notice establishes the nomenclature to be used by the Bureau of Domestic Commerce for identifying the regulations, orders, and rules of the Defense Materials System and Priorities, which are issued by the Bureau of Domestic Commerce under the authority of the Defense Production Act of 1950, as amended. Further, this notice redesignates the nomenclature of all of the outstanding actions of the Business and Defense Services Administration which were ratified and adopted by BDC Notice 1, effective September 15, 1970, as actions of the Bureau of Domestic Commerce.

Sec. 2 Designation of BDC actions.

Rules, regulations, and orders issued under the authority of sec. 704 of the Defense Production Act of 1950, as amended, will be designated as follows:

(a) "BDC Notices" are published actions issued by the Director, BDC, which are nonregulatory in nature but pertain to the administration of BDC functions under the Defense Production Act of 1950, as amended. Each BDC Notice will be assigned a number in chronological sequence.

(b) "DPS (Defense Priorities System) Regulations" are the basic rules of the priorities system administered by BDC. Each such regulation will be designated in the following manner, "DPS Reg. _____," and will be assigned a number in chronological sequence.

(c) "DPS (Defense Priorities System) Orders" are orders that provide for the application of the rules of the priorities system to a specific material or product, or to a class of materials or products. Each such order will be designated in the following manner, "DPS Order _____," and will be assigned a number in chronological sequence.

(d) "DMS (Defense Materials System) Regulations" are the basic rules applicable to the production, use and distribution for defense purposes of controlled materials: Steel, copper, aluminum and nickel alloys, as defined in DMS Reg. 1. Each such regulation will be designated in the following manner, "DMS Reg. _____," and will be assigned a number in chronological sequence.

(e) "DMS (Defense Materials System) Orders" are orders that supplement the DMS regulations and set forth the rules governing the operations of producers, further converters, and distributors of a particular controlled material under the Defense Materials System. Each such order will be designated in the following manner, "DMS Order _____," and will be assigned a number in chronological sequence.

(f) "Amendments to Orders and Regulations" are amendments that revise or otherwise amend specific provisions of regulations and orders. These amendments which may be issued from time to time, will be designated in the following manner, "Amdt. _____ to DPS Order _____" or "Amdt. _____ to DMS Reg. _____," and will be assigned a number in chronological sequence.

(g) "Directions to Orders and Regulations" are actions that establish special rules or provisions with respect to particular classes of persons, or establishing special rules or provisions applicable

to users of particular materials. Each such direction which may be issued from time to time, will be designated in the following manner, "Direction _____ to DMS Reg. _____" or "Direction _____ to DPS Reg. _____," and will be assigned a number in chronological sequence.

(h) "BDC Delegations" other than emergency delegations are actions that provide for the delegation of authority to other agencies or officials of the Government by the Director of the Bureau of Domestic Commerce pursuant to the authority under the Defense Production Act of 1950, as amended, Executive Order 10480, DMO 8400.1, and Commerce Department Organization Order 40–1A. Each delegation of authority will be designated in the following manner "BDC Del. _____" and will be assigned a number in chronological sequence.

(i) "BDC Emergency Delegations" are actions that provide for the emergency delegation of priorities and allocations authority to individuals occupying named positions, in a line of succession, in the event of an attack upon the United States. Such delegations may also establish limitations on the exercise of such delegated authority. Each such emergency delegation will be designated in the following manner, "BDC Emergency Del. _____," and will be assigned a number in chronological sequence.

(j) "BDC Emergency Regulations" are rules that provide the emergency priority procedures to be used upon the declaration of a national emergency and a concomitant loss of communications with national headquarters. Each emergency regulation will be designated in the following manner, "BDC Emergency Reg. _____," and will be assigned a number in chronological sequence.

Sec. 3 Redesignation of outstanding regulations, orders and other actions of the Bureau of Domestic Commerce.

All regulations, orders, and delegations of authority, and all other actions taken (including but not limited to directives), which were issued or taken by or under the authority of the Administrator of the Business and Defense Services Administration and have been ratified by BDC Notice 1, effective September 15, 1970, and were in existence at the effective date of this notice are redesignated as shown in List A of this notice.

(Sec. 704, 64 Stat. 816, as amended, 50 U.S.C. App. 2154; sec. 1, Public Law 91–379; 50 U.S.C. App. 2166; E.O. 10480, as amended, 18 F.R. 4939, 6201, 19 F.R. 3807, 7249, 21 F.R. 1673, 23 F.R. 5061, 6971, 24 F.R. 3779, 27 F.R. 9683, 11447; DMO 8400.1, 28 F.R. 12164; Commerce Department Organization Order No. 40–1A, 35 F.R. 15174)

This notice shall take effect November 30, 1970.

BUREAU OF DOMESTIC COMMERCE,
WILLIAM D. LEE,
Director.

LIST A OF BDC NOTICE 3

REDESIGNATION OF OUTSTANDING ACTIONS OF BDC

Redesignation	Formerly	Title
DMS Reg. 1 (as amended Dec. 1, 1959)	DMS Reg. 1 (as amended Dec. 1, 1959).	Basic Rules of the Defense Material System.
DMS Reg. 1, Amdt. 1 (Mar. 15, 1966)	DMS Reg. 1, Amdt. 2 (Mar. 15, 1966).	Authorized Program Identification and Allotting Agencies.
DMS Reg. 1, Dir. 1 (Dec. 1, 1959)	DMS Reg. 1, Dir. 1 (Dec. 1, 1959)	Self-Authorization Procedure for MRO Needed by Certain Persons.
DMS Reg. 1, Dir. 2 (Dec. 1, 1959)	DMS Reg. 1, Dir. 2 (Dec. 1, 1959)	Small Order Procedure for allotting Agencies.
DMS Reg. 1, Dir. 3 (Dec. 1, 1959)	DMS Reg. 1, Dir. 3 (Dec. 1, 1959)	Controlled Material Producers and Distributors.
DMS Order 1 (Aug. 14, 1970)	BDSA Order M-1A (Aug. 14, 1970)	Iron and Steel.
DMS Order 2 (June 29, 1956)	M-1B (June 29, 1956)	Nickel Alloys.
DMS Order 2, Amdt. 1 (Aug. 17, 1956)	M-1B, Amdt. 1 (Aug. 17, 1956)	Change in Definition of Nickel Alloys.
DMS Order 2, Amdt. 2 (Jan. 20, 1958)	M-1B, Amdt. 2 (Jan. 20, 1958)	Replacement of Inventory by Distributors.
DMS Order 3 (May 6, 1953)	M-5A (May 6, 1953)	Aluminum.
DMS Order 3, Amdt. 1 (Dec. 31, 1956)	M-5A, Amdt. 1 (Dec. 31, 1956)	Amdt. of Sections 5 and 9(a).
DMS Order 3, Amdt. 2 (Jan. 20, 1958)	M-5A, Amdt. 2 (Jan. 20, 1958)	Replacement of Inventory by Distributors.
DMS Order 4 (Oct. 23, 1960)	BDSA Order M-11A (Oct. 23, 1960)	Copper and Copper-Base Alloys.
DMS Order 4, Schedule A (May 16, 1970).	Schedule A to BDSA Order M-11A (May 16, 1970).	Set-Aside Percentages.
DMS Order 4, Dir. 1, as amended (Dec. 2, 1966).	BDSA Order M-11A, Dir. 1, as amended (Dec. 2, 1966).	Ammo Strip Set-Aside.
DMS Order 4, Dir. 1, Amdt. 4 (May 16, 1970).	BDSA Order M-11A, Dir. 1, Amdt. 4 (May 16, 1970).	Ammo Strip Set-Aside.
DMS Order 4, Dir. 2, as amended (Nov. 14, 1969).	BDSA Order M-11A, Dir. 2, as amended (Nov. 14, 1969).	Domestic Refined Copper Set-Aside.
DMS Order 4, Dir. 2, Amdt. 1 (May 16, 1970).	BDSA Order M-11A, Dir. 2, Amdt. 1 (May 16, 1970).	Domestic Refined Copper Set-Aside.
DMS Order 4, Dir. 2, Amdt. 2 (Aug. 23, 1970).	BDSA Order M-11A, Dir. 2, Amdt. 2 (Aug. 23, 1970).	Domestic Refined Copper Set-Aside
DPS Reg. 1 (Mar. 23, 1953)	BDSA Reg. 2 (Mar. 23, 1953)	Basic Rules of the Priorities System.
DPS Reg. 1, Amdt. 1 (May 9, 1958)	BDSA Reg. 2, Amdt. 5 (May 9, 1958).	Limitation on Use and Disposition of Materials Acquired with Priorities Assistance.
DPS Reg. 1, Amdt. 2 (Apr. 27, 1960)	BDSA Reg. 2, Amdt. 6 (Apr. 27, 1960).	Mandatory Use of Rating Authority.
DPS Reg. 1, Amdt. 3 (July 21, 1964)	BDSA Reg. 2, Amdt. 7 (July 21, 1964).	Change in List A.
DPS Reg. 1, Amdt. 4 (Oct. 23, 1966)	BDSA Reg. 2, Amdt. 9 (Oct. 23, 1966).	Change in List A.
DPS Reg. 1, Dir. 1 (Apr. 30, 1952)	BDSA Reg. 2, Dir. 4 (Apr. 30, 1952)	Electronic Components—Sequence of Deliveries for Small Orders.
DPS Reg. 1, Dir. 2 (June 29, 1956)	BDSA Reg. 2, Dir. 7 (June 29, 1956).	Limitation on the Use of Ratings to Obtain Nickel.
DPS Reg. 1, Dir. 2 Amdt. 1 (May 9, 1958).	BDSA Reg. 2, Dir. 7 Amdt. 1 (May 9, 1958).	Limitation on the Use of Ratings to Obtain Nickel—Elimination of Notification Requirements and Certain Use Limitations.
DPS Reg. 1, Dir. 3 (Jan 18, 1957)	BDSA Reg. 2, Dir. 8 (Jan. 18, 1957)	Notice of Acceptance or Rejection of DX Rated Orders and of Delayed Shipment of Certain DO Rated Orders.
DPS Reg. 1, Dir. 4 (Aug. 15, 1967)	BDSA Reg. 2, Dir. 11 (Aug. 15, 1967).	Establishment of a Lead Time for Placement of Rated Orders for the Delivery of Nickel and Ferronickel.
DPS Reg. 2 (Feb. 1, 1956)	BDSA Reg. 3 (Feb. 1, 1956)	Operations of the Priorities and Allocations System Between Canada and the United States.
DPS Reg. 3 (May 15, 1965)	BDSA Reg. 8 (May 15, 1956)	Compliance and Enforcement Procedures.
DPS Order 1 (May 24, 1963)	M-41 (May 24, 1963)	Metalworking Machines.
BDC Del. 1 (May 31, 1960)	BDSA Del. 1 (May 31, 1960)	Delegation of Authority to Secretary of Defense.
BDC Del. 2 (May 31, 1960)	BDSA Del. 2 (May 31, 1960)	Delegation of Authority to Atomic Energy Commission.
BDC Del. 3 (May 5, 1963)	BDSA Del. 3 (May 8, 1963)	Delegation of Authority to Administrator of General Services Administration.
BDC Del. 4 (Feb. 26, 1951)	Del. 9 (Feb. 26, 1951)	Delegation of Authority with Respect to Certain Industrial Chemicals Used Principally in the Petroleum Industry.
BDC Del. 5 (Apr. 26, 1951)	Del. 10 (Apr. 26, 1951)	Delegation of Authority to Exercise Certain Functions Vested in Administrator of National Production Authority.
BDC Emergency Del. 1 (Feb. 6, 1968)	BDSA Emergency Del. 1 (Feb. 6, 1968).	Emergency Delegation of Priorities and Allocation Powers.

[F.R. Doc. 70–16074; Filed, Nov. 30, 1970; 8:45 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

MISCELLANEOUS AMENDMENTS

1. In § 3.50(b), subparagraph (2) is amended to read as follows:

§ 3.50 Wife, widow or spouse.

* * * * *

(b) *Widow.* * * *

(2) Who has not remarried or (in cases not involving remarriage) has not since the death of the veteran and after September 19, 1962, lived with another man and held herself out openly to the public to be the wife of such other man. On and after January 1, 1971, the requirement of this subparagraph is that she be unmarried and not living with another man and holding herself out openly to the public as the wife of such

other man. (38 U.S.C. 101(3); Public Law 91–376, 84 Stat. 787)

* * * * *

2. Section 3.55 is revised to read as follows:

§ 3.55 Terminated marital relationships.

(a) Remarriage of a widow or marriage of a child shall not bar the furnishing of benefits to such widow, or to or on account of such child, if the marriage

(1) Was void, or

(2) Has been annulled by a court having basic authority to render annulment decrees, unless it is determined by the Veterans Administration that the annulment was obtained through fraud by either party or by collusion.

(b) On and after January 1, 1971, remarriage of a widow shall not bar the furnishing of benefits to such widow if the marriage

(1) Has been terminated by death, or

(2) Has been dissolved by a court with basic authority to render divorce decrees unless the Veterans Administration determines that the divorce was secured through fraud by the widow or by collusion.

(c) On and after January 1, 1971, the fact that a widow has lived with another man and has held herself out openly to the public as the wife of such other man shall not bar the furnishing of benefits to her after she terminates the relationship.

(d) On and after January 1, 1971, the fact that benefits to a widow may previously have been barred because her conduct or a relationship into which she had entered had raised an inference or presumption that she had remarried or had been determined to be open and notorious adulterous cohabitation, or similar conduct, shall not bar the furnishing of benefits to such widow after she terminates the conduct or relationship. (38 U.S.C. 103(d), (e); Public Law 91–376, 84 Stat. 787)

3. Immediately following § 3.214, § 3.215 is added to read as follows:

§ 3.215 Termination of marital relationship or conduct.

On and after January 1, 1971, benefits may be resumed to an unmarried widow upon filing of an application and submission of satisfactory evidence that she has ceased living with another man and holding herself out openly to the public as his wife, or that she has terminated a relationship or conduct which had created an inference or presumption of remarriage or related to open and notorious adulterous cohabitation or similar conduct. Such evidence may consist of, but is not limited to, her certified statement of the fact. (38 U.S.C. 103(d); sec. 5, Public Law 91–376, 84 Stat. 787)

4. In § 3.307, the headnote and paragraphs (a), (b), and (d) are amended to read as follows:

§ 3.307 Presumptive service connection for chronic, tropical, or prisoner of war related disease; wartime and service on or after February 1, 1955.

(a) *General.* A chronic, tropical, or prisoner of war related disease listed in § 3.309 will be considered to have been incurred in service under the circumstances outlined in this section even though there is no evidence of such disease during the period of service. No condition other than one listed in § 3.309 (a) will be considered chronic.

(1) *Service.* The veteran must have served 90 days or more during a war period or after January 31, 1955. The requirement of 90 days' service means active, continuous service within or extending into or beyond a war period, or which began before and extended beyond January 31, 1955, or began after that date. Any period of service is sufficient for the purpose of establishing the presumptive service connection of a specified disease under the conditions listed in § 3.309(c).

(2) *Separation from service.* For the purpose of subparagraphs (3), (4), and (5) of this paragraph, the date of separation from wartime service will be the date of discharge or release during a war period, or if service continued after the war, the end of the war period. In claims based on service on or after February 1, 1955, the date of separation will be the date of discharge or release from the period of service on which the claim is based.

(3) *Chronic disease.* The disease must have become manifest to a degree of 10 percent or more within 1 year (for Hansen's disease (leprosy) and tuberculosis, within 3 years; multiple sclerosis, within 7 years) from the date of separation from service as specified in subparagraph (2) of this paragraph.

(4) *Tropical disease.* The disease must have become manifest to a degree of 10 percent or more within 1 year from date of separation from service as specified in subparagraph (2) of this paragraph, or at a time when standard accepted treatises indicate that the incubation period commenced during such service. The resultant disorders or diseases originating because of therapy administered in connection with a tropical disease or as a preventative may also be service connected. (38 U.S.C. 312)

(5) *Diseases specific as to prisoners of war.* The disease must have become manifest to a degree of 10 percent or more at any time after service, except psychosis which must have become manifest to a degree of 10 percent within 2 years from the date of separation from service as specified in subparagraph (2) of this paragraph. (38 U.S.C. 312; Public Law 91–376, 84 Stat. 787)

(b) *Evidentiary basis.* The factual basis may be established by medical evidence, competent lay evidence or both. Medical evidence should set forth the physical findings and symptomatology elicited by examination within the applicable period. Lay evidence should describe the material and relevant facts as to the veteran's disability observed within such period, not merely conclusions based upon opinion. The chronicity and continuity factors outlined in § 3.303 (b) will be considered. The diseases listed in § 3.309(a) will be accepted as chronic, even though diagnosed as acute because of insidious inception and chronic development, except (1) where they result from intercurrent causes, for example, cerebral hemorrhage due to injury, or active nephritis or acute endocarditis due to intercurrent infection (with or without identification of the pathogenic micro-organism); or (2) where a disease is the result of drug ingestion or a complication of some other condition not related to service. Thus, leukemia will be accepted as a chronic disease whether diagnosed as acute or chronic. Unless the clinical picture is clear otherwise, consideration will be given as to whether an acute condition is an exacerbation of a chronic disease. Where, for the purposes of § 3.309(c), the issue is presented as to whether a prisoner of war suffered from dietary deficiencies, forced labor, or inhumane treatment (in violation of the terms of the Geneva Conventions of July 27, 1929, and August 12, 1949), while held as a prisoner of war, it will be resolved on the basis of all evidence available including the statements of comrades and the veteran's own statement in certified form. (38 U.S.C. 312; Public Law 91–376, 84 Stat. 787)

* * * * *

(d) *Rebuttal of service incurrence.* Evidence which may be considered in rebuttal of service incurrence of a disease listed in § 3.309 will be any evidence of a nature usually accepted as competent to indicate the time of existence or inception of disease, and medical judgment will be exercised in making determinations relative to the effect of intercurrent injury or disease. The expression, "affirmative evidence to the contrary" will not be taken to require a conclusive showing, but such showing as would, in sound medical reasoning and in the consideration of all evidence of record, support a conclusion that the disease was not incurred in service. As to tropical diseases the fact that the veteran had no service in a locality having a high incidence of the disease may be considered as evidence to rebut the presumption, as may residence during the period in question in a region where the particular disease is endemic. The known incubation periods of tropical diseases should be used as a factor in rebuttal of presumptive service connection as showing inception before or after service. (38 U.S.C. 313)

5. In § 3.309, paragraph (c) is added to read as follows:

§ 3.309 Disease subject to presumptive service connection.

* * * * *

(c) *Diseases specific as to prisoners of war.* The following diseases may be considered for service connection although not otherwise established as incurred in service if manifested to a compensable degree under the provisions of § 3.307(a) (5) and if the veteran, while held as a prisoner of war by an enemy government or its agents during World War II, the Korean conflict, or the Vietnam era, suffered from dietary deficiencies, forced labor, or inhumane treatment (in violation of the terms of the Geneva Conventions of July 27, 1929, and August 12,

1949). If he was held for not less than 6 months by the Imperial Japanese Government or the German Government during World War II, by the Government of North Korea during the Korean conflict, or by the Government of North Korea or the Government of North Vietnam or the Vietcong forces during the Vietnam era, or by their respective agents, he shall be deemed to have suffered from such dietary deficiencies, forced labor, and inhumane treatment.

Avitaminosis.
Beriberi (including beriberi heart disease).
Chronic dysentery.
Helminthiasis.
Malnutrition (including optic atrophy associated with malnutrition).
Pellagra.
Any other nutritional deficiency.
Psychosis.

(38 U.S.C. 312; Public Law 91-376, 84 Stat. 787)

6. In § 3.350, those portions of paragraphs (a), (b), (c), (e), and (i) preceding subparagraph (1) and paragraphs (d), (f) (1) and (2), and (h) are amended to read as follows:

§ 3.350 Special monthly compensation ratings.

The rates of special monthly compensation stated in this section are those provided under 38 U.S.C. 314 based on wartime service. For disabilities due to peacetime service, the rate is 80 percent of the wartime rate, as provided in 38 U.S.C. 334.

(a) *Ratings under 38 U.S.C. 314(k).* Special monthly compensation ($47 wartime rate) is payable for each anatomical loss or loss of use of one hand, one foot, both buttocks, one or more creative organs, blindness of one eye having only light perception, deafness of both ears, having absence of air and bone conduction, or complete organic aphonia with constant inability to communicate by speech. This special compensation is payable in addition to the basic rate of compensation otherwise payable on the basis of degree of disability, provided that the combined rate of compensation does not exceed $560 monthly when authorized in conjunction with any of the provisions of 38 U.S.C. 314 (a) through (j) or (s). When there is entitlement under 38 U.S.C. 314 (l) through (n) or an intermediate rate under (p) such additional allowance is payable for each such anatomical loss or loss of use existing in addition to the requirements for the basic rates, provided the total does not exceed $784 per month. The limitations on the maximum compensation payable under this paragraph are independent of and do not preclude payment of additional compensation for dependents under 38 U.S.C. 315, or the special allowance for aid and attendance provided by 38 U.S.C. 314(r).

* * * * *

(b) *Ratings under 38 U.S.C. 314(l).* The special monthly compensation provided by 38 U.S.C. 314(l) is payable for anatomical loss or loss of use of both hands, both feet, one hand and one foot, blindness in both eyes with visual acuity of 5/200 or less or being permanently bedridden or so helpless as to be in need of regular aid and attendance. The monthly rate is $560.

* * * * *

(c) *Ratings under 38 U.S.C. 314(m).* The special monthly compensation provided by 38 U.S.C. 314(m) is payable for anatomical loss or loss of use of two extremities at a level or with complications preventing natural elbow or knee action with prosthesis in place; or for blindness in both eyes having only light perception; or for blindness in both eyes rendering him so helpless as to be in need of regular aid and attendance. The monthly rate is $616.

* * * * *

(d) *Ratings under 38 U.S.C. 314(n).* The special monthly compensation provided by 38 U.S.C. 314(n) is payable for the anatomical loss of two extremities so near the shoulder or hip as to prevent the use of a prosthetic appliance or anatomical loss of both eyes. The rate is $700 per month. Amputation is a prerequisite. If a prosthesis cannot be worn at the present level of amputation but could be applied if there were a reamputation at a higher level the requirements of this paragraph are not met; instead, consideration will be given to loss of natural elbow or knee action.

(e) *Ratings under 38 U.S.C. 314(o).* The special monthly compensation provided by 38 U.S.C. 314(o) is payable for conditions entitling to two or more of the rates (no condition being considered twice) provided in 38 U.S.C. 314 (l) through (n) or for bilateral deafness rated at 60 percent or more disabling, and the hearing impairment in one or both ears is service connected, in combination with service-connected blindness with bilateral visual acuity 5/200 or less. The monthly rate is $784.

* * * * *

(f) *Intermediate or next higher rate; 38 U.S.C. 314(p)—(1) Extremities.* (i) Anatomical loss or loss of use of one extremity with the anatomical loss or loss of use of another extremity at a level or with complications preventing natural elbow or knee action with prosthesis in place will entitle to the rate intermediate between 38 U.S.C. 314 (l) and (m). The monthly rate is $588.

(ii) Anatomical loss or loss of use of one extremity with anatomical loss of another extremity so near the shoulder or hip as to prevent the use of a prosthetic appliance will entitle to the rate equal to 38 U.S.C. 314(m). The monthly rate is $616.

(iii) Anatomical loss or loss of use of extremity at a level preventing natural elbow or knee action with prosthesis in place with anatomical loss of another extremity so near the shoulder or hip as to prevent the use of a prosthetic appliance will entitle to the rate intermediate between 38 U.S.C. 314 (m) and (n). The monthly rate is $658:

(2) *Eyes, bilateral, and blindness in connection with deafness.* (i) Blindness of one eye with 5/200 visual acuity or less and blindness of the other eye having only light perception will entitle to the rate intermediate between 38 U.S.C. 314 (l) and (m). The monthly rate is $588.

(ii) Blindness of one eye with 5/200 visual acuity or less and anatomical loss, or blindness having no light perception accompanied by phthisis bulbi, evisceration or other obvious deformity or disfigurement of the other eye, will entitle to a rate equal to 38 U.S.C. 314(m). The monthly rate is $616.

(iii) Blindness of one eye having only light perception and anatomical loss, or blindness having no light perception accompanied by phthisis bulbi, evisceration or other obvious deformity or disfigurement of the eye, will entitle to a rate intermediate between 38 U.S.C. 314 (m) and (n). The monthly rate is $658.

(iv) Total blindness of both eyes having no light perception accompanied by phthisis bulbi, evisceration, or other obvious deformity or disfigurement will entitle to a rate equal to 38 U.S.C. 314(n). The monthly rate is $700.

(v) Blindness in both eyes rated under 38 U.S.C. 314 (l), (m) or (n), or under the intermediate or next higher rate provisions outlined above, when accompanied by:

(*a*) Service-connected total deafness in one ear, will afford entitlement to the next higher intermediate rate or if the veteran is already entitled to an intermediate rate to the next higher statutory rate under 38 U.S.C. 314, but not higher than the (o) rate; or

(*b*) Bilateral deafness rated at no less than 40 percent, and the hearing impairment in one or both ears is service connected, will afford entitlement to the next higher statutory rate under 38 U.S.C. 314 or if the veteran is already entitled to an intermediate rate to the next higher intermediate rate, but in no event higher than the rate for (o).

* * * * *

(h) *Special aid and attendance benefit in maximum monthly compensation cases; 38 U.S.C. 314(r).* A veteran receiving the maximum rate ($784) of special monthly compensation under any provision or combination of provisions in 38 U.S.C. 314 who is in need of regular aid and attendance is entitled to an additional allowance during periods he is not hospitalized at U.S. Government expense. (See § 3.552(b)(2) as to continuance following admission for hospitalization.) The rate is $336. Determination of this need is subject to the criteria of § 3.352. This additional allowance is payable whether or not the need for regular aid and attendance was a partial basis for entitlement to the maximum $784 rate, or was based on an independent factual determination.

(i) *Total plus 60 percent, or housebound; 38 U.S.C. 314(s).* The special monthly compensation at the rate of $504 provided by 38 U.S.C. 314(s) is payable where the veteran has a single service-connected disability rated as 100 percent under regular schedular evaluation and,

* * * * *

7. In § 3.400, paragraph (v) is amended and paragraphs (w) and (x) are added to read as follows:

§ 3.400 General.

* * * * *

(v) *Void or annulled marriage of a child (38 U.S.C. 3010 (a), (k); § 3.55).*—(1) *Void.* Date the parties ceased to cohabit or date of receipt of claim, whichever is later.

(2) *Annulled.* Date the decree of annulment became final if claim is filed within 1 year after that date; otherwise date of receipt of claim.

(w) *Termination of remarriage of widow (38 U.S.C. 3010 (a), (k); 38 U.S.C. 103(d)(2) and 3010(1), Public Law 91-376 (84 Stat. 787), effective January 1, 1971; § 3.55).*—(1) *Void.* Date the parties ceased to cohabit or date of receipt of claim, whichever is the later.

(2) *Annulled.* Date the decree of annulment became final if claim is filed within 1 year after that date; otherwise date of receipt of claim.

(3) *Death.* Date of death if claim is filed within 1 year after that date; otherwise date of receipt of claim. (Effective Jan. 1, 1971)

(4) *Divorce.* Date the decree became final if claim is filed within 1 year after that date; otherwise date of receipt of claim. (Effective Jan. 1, 1971)

(x) *Termination of relationship or conduct resulting in restriction on payment of benefits (38 U.S.C. 103(d)(3), 3010(m), Public Law 91-376 (84 Stat. 787), effective January 1, 1971; § 3.50(b)(2), and § 3.55).* Date of receipt of application filed after termination of relationship and after December 31, 1970.

(8) In § 3.700, paragraph (b) is amended to read as follows:

§ 3.700 General.

* * * * *

(b) *Dependents.*—(1) *Widows.* The receipt of pension, compensation or dependency and indemnity compensation by a widow on account of the death of any veteran, or receipt of pension or compensation on account of her own service, shall not bar the payment to her of pension, compensation, or dependency and indemnity compensation on account of the death or disability of any other veteran; however, other than insurance, concurrent benefits under laws administered by the Veterans Administration may not be authorized to a widow by reason of the death of more than one veteran to whom she has been married. Effective January 1, 1971, the widow may elect to receive benefits based on the death of one such spouse and the election places the right to benefits based on the deaths of other spouses in suspense. The suspension may be lifted at any time by another election based on the death of another husband.

(2) *Children.* Except as provided in § 3.703, the receipt of pension, compensation, or dependency and indemnity compensation by a child on account of the death of a veteran or the receipt by him of pension or compensation on account of his own service will not bar the payment to him of pension, compensation, or dependency and indemnity compensation on account of the death or disability of any other veteran.

(3) *Parents.* The receipt of compensation or dependency and indemnity compensation by a parent on account of the death of a veteran or receipt by him of pension or compensation on account of his own service, will not bar the payment of pension, compensation, or dependency and indemnity compensation on account of the death or disability of any other person. (38 U.S.C. 3104(b); Public Law 91-376, 84 Stat. 787)

* * * * *

(72 Stat. 1114; 38 U.S.C. 210)

These VA regulations are effective August 12, 1970, except § 3.350 which is effective July 1, 1970.

Approved: November 24, 1970.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[F.R. Doc. 70-16062; Filed, Nov. 30, 1970; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Parts 4, 6, 8, 15, 18, 123]

UNIFORM SYSTEM OF ACCOUNTING

Manifested and Entered Quantities of Merchandise

On June 6, 1970, a notice of proposed rule making regarding regulations on the above subject was published in the FEDERAL REGISTER (35 F.R. 8829). Interested persons were given an opportunity to submit written comments, suggestions or objections regarding the proposed regulations. The time for submission of such comments was extended by a notice which appeared in the FEDERAL REGISTER of July 8, 1970 (35 F.R. 10962). Representations submitted pursuant to the notices were carefully considered. On the basis of such comments, the notice of June 6, 1970, is hereby republished with the following changes:

1. The introduction of the notice is amended in order to clarify Customs view as to the status of the class of persons known as pier or terminal operators in the import-export business under the present provisions of the Tariff Act of 1930, as amended.

2. Section 4.12(a) is amended to provide for a uniform time period during which vessel masters or agents shall notify the district director of Customs as to discrepancies between manifested and landed quantities of merchandise. The section is also amended so that it will conform to other provisions of the Customs regulations regarding the method of assessment of penalties for discrepancies between manifested and carried quantities of merchandise.

3. Section 15.8(c)(2) is amended to clarify who Customs will consider responsible for duties on merchandise permitted in accordance with the provisions of previously proposed amendments to this section.

Minor editorial changes, and conforming changes to reflect revisions in cross-references and the redesignation of Part 5 of the regulations as Part 123 by Treasury Decision 70-134 (35 F.R. 9251), are also made.

Notice is hereby given that pursuant to the authority contained in R.S. 251, secs. 439, 440, 459, 460, 484, 498(a), 505, 584, 623, 624, 46 Stat. 712, as amended, 717, as amended, 722, as amended, 728, as amended, 732, as amended, 748, as amended, 759, as amended, sec. 1109, 72 Stat. 799, as amended, 19 U.S.C. 66, 1439, 1440, 1459, 1460, 1484, 1498(a), 1505, 1584, 1623, 1624, 49 U.S.C. 1509, 5 U.S.C. 301, it is proposed to amend §§ 4.12(a), 6.7(h), 8.28(b), 15.8, 18.6 (b) and (c), and add § 123.9, to the Customs regulations relating to the manifesting of merchandise imported by vessel, vehicle and by aircraft, to the granting of permits to release merchandise by Customs, to allowances granted in the assessment of duties when lost or missing merchandise was not imported, and to shortages in merchandise shipped under a transportation entry.

A nationwide uniform method of accounting for manifested merchandise and treatment of quantity discrepancies of imported merchandise will benefit carriers and importers by reducing uncertainties in establishing the facts necessary to be relieved of liability for merchandise not, in fact, imported. Customs will also benefit by the installation of a system that will reduce paperwork and which will allow a carrier and a consignee to reconcile between themselves, without the intervention of Customs, differences between manifested quantity of merchandise, including merchandise in the physical possession of "pier" or "terminal operators" who are viewed by Customs as agents of carriers, and quantity of merchandise available for delivery to consignee by the carrier under the provision of section 448(a) of the Tariff Act of 1930 (19 U.S.C. 1448(a)).

The purpose of the proposed amendments to the Customs Regulations, which are set forth below, remains, as previously stated in the June 6, 1970, notice of proposed rule making, to provide for a uniform system of ascertaining manifested and entered quantities of merchandise.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

In § 4.12, paragraph (a) is amended to read:

§ 4.12 Correction of manifest.

(a) (1) Vessel masters or agents shall notify the district director on Customs Form 5931 of shortages (merchandise manifested, but not found) or overages (merchandise found, but not manifested) of merchandise.

(2) Shortages shall be reported to the district director by the master or agent of the vessel by endorsement on the importer's claim for shortage on Customs Form 5931 as provided for in § 15.8(a)(2) of this chapter or within 30 days after the date of entry of the vessel, whichever is later. Satisfactory evidence to support the claim of nonarrival [23] or of proper disposition, or other corrective action (see § 4.34) shall be obtained by the master or agent and shall be retained in the carrier's file for 1 year.

(3) Overages shall be reported to the district director within 30 days after the date of entry of the vessel by completion of a post entry [24] or suitable explanation of corrective action (see § 4.34) on the Customs Form 5931.

(4) The district director shall advise the master or agent only of those discrepancies which are not timely reported by the master or agent. The master or agent shall satisfactorily resolve the matter within 30 days.

(5) Unless the required notification and explanation is made timely and the district director is satisfied that the discrepancies resulted from clerical error or other mistake and there has been no loss of revenue (and in the case of a discrepancy not initially reported by the master or agent that there was a valid reason for the failure to so report), applicable penalties under section 584, Tariff Act of 1930, as amended, shall be assessed (see § 23.23 of this chapter). For the purpose of assessing such penalties, the value of the merchandise shall be determined as prescribed in § 23.12 of this chapter. The fact that the master or owner had no knowledge of a discrepancy shall not relieve him from the penalty.

* * * * *

PART 6—AIR COMMERCE REGULATIONS

In § 6.7, paragraph (h) is amended to read:

§ 6.7 Documents for entry.

* * * * *

(h) The provisions of sections 440[2a] and 584[2b], Tariff Act of 1930, as amended, relate, respectively, to post entry for correction of and to penalties for falsity or lack of a manifest. Those provisions are applicable to aircraft arriving from a place outside the United States with merchandise and unaccompanied baggage for which a manifest is required to be filed. The time limitations and the requirements for notification set forth in § 4.12 of this chapter with respect to the correction of vessel manifests are applicable to the correction of aircraft manifests. Post entry to add to a manifest any merchandise omitted from or which does not agree with the manifest may be made by the airline on a separate copy of the cargo manifest form marked or stamped "Post Entry." Correction of a manifest to delete merchandise not found on board the aircraft at the time of arrival may be made by submission of a separate copy of the cargo manifest form marked or stamped "Shortage Declaration." Such copies shall list the merchandise involved, state the reasons for the discrepancy, and bear a signed declaration of the aircraft commander or an authorized agent reading "I declare to the best of my knowledge and belief that the overages or shortages described herein occurred for the reasons stated. I also certify that evidence to support a claim of nonimportation of the merchandise, proper disposition elsewhere or

other corrective action will be retained in the carrier's files for a period of at least 1 year and will be made available to Customs on demand." If a copy of the cargo manifest is not so used, Customs Form 5931 shall be used for corrections of the manifest. Unless the required notification and explanation are made timely and the district director is satisfied that the discrepancies resulted from clerical error or other mistake and there has been no loss to the revenue (and in the case of a discrepancy not initially reported by the master or agent that there was a valid reason for the failure to so report), applicable penalties under section 584, Tariff Act of 1930, as amended, shall be assessed. For the purpose of assessing such penalties, the value of the merchandise shall be determined as prescribed in § 23.12 of this chapter. The fact that the aircraft commander or owner had no knowledge of a discrepancy shall not relieve him from the penalty.

(Sec. 644, 46 Stat. 766, sec. 1109, 72 Stat. 799; 19 U.S.C. 1644, 49 U.S.C. 1509)

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

In § 8.28, paragraph (b) is amended to read:

§ 8.28 Release under bond; deposit of estimated duties; permit.

* * * * *

(b) The estimated duties, if any, having been deposited as required by section 505, Tariff Act of 1930[73] and the bond filed, an authorization for delivery on Customs Form 7501–A shall be issued and delivered to the importer or his agent, to be by him sent to the inspector in charge of the merchandise, who shall authorize the carrier to deliver that part of the merchandise not designated for examination, and which the carrier has retained under the provisions of section 499, Tariff Act of 1930, as amended, with discrepancies between the invoiced-entered quantities delivered to the consignee by the carrier accounted for in accordance with the provisions of § 15.8 of this chapter: *Provided,* That the district director may authorize an examiner to release both examined and unexamined packages in a shipment examined by such officer at a place not in charge of a Customs officer when this can be done without any real interference with the performance of the examiner's regular duties.

* * * * *

(Secs. 484, 505, 623, 46 Stat. 722, as amended, 732, as amended, 759, as amended; 19 U.S.C. 1484, 1505, 1623)

PART 15—RELIEF FROM DUTIES ON MERCHANDISE LOST, STOLEN, DESTROYED, INJURED, ABANDONED, OR SHORT-SHIPPED

Section 15.8 is amended to read:

§ 15.8 Shortages in invoiced or entered quantities of merchandise; lost packages, deficiencies in contents of packages, definition of "permitted" merchandise.

(a) (1) An importer will be allowed to file a consumption or warehouse entry for less than the invoiced and manifested amount of merchandise where the number of packages of merchandise "permitted" and delivered to him by the carrier, under the immediate delivery provisions of § 8.59 of this chapter is less than the amount invoiced and manifested, provided there is filed with the entry a Customs Form 5931, in triplicate executed by both the importer and the importing carrier or bonded carrier, and the said carrier declares therein that the missing package(s) were not available for release by the carrier within the provisions of 19 U.S.C. 1448(a).

(2) Allowance shall be made in the assessment of duties for lost or missing packages of merchandise included in an entry whenever it is established to the satisfaction of the district director of Customs before the liquidation of the entry becomes final that the merchandise claimed to be lost or missing was not permitted (see paragraph (c) of this section). A claim for such allowance must be made on Customs Form 5931, in triplicate, executed by the importer and the importing carrier or bonded carrier, as appropriate. Where the importing or bonded carrier refuses to execute the Form 5931, a claim may be allowed if the importer properly executes the Form 5931 and attaches copies of the dock receipt or other document evidencing nonreceipt of the missing or lost packages. When there is a difference between the quantities shown on an importing carrier's manifest and the quantity permitted to the importer, duties or liquidated damages shall be assessed under the provisions of 19 U.S.C. 1448 or the provisions of the carrier's bond, unless the carrier corrects his manifest (see § 4.12 of this chapter). Liquidated damages for lost or missing packages shall be assessed against a bonded common carrier in accordance with § 18.8 of this chapter.

(3) An allowance shall be made in the assessment of duties for deficiencies in a package or packages when:

(i) The importer files a Customs Form 5931, in triplicate, executed by the importer alone, where the claim is made that the shortage was concealed and the district director satisfies himself as to the validity of the claims; or

(ii) In the case of unconcealed shortages, the importer files a Customs Form 5931, in triplicate, executed by both the importer and the importing carrier.

(b) Allowance for deficiency in any examination package reported to the district director by a Customs officer shall be made in the liquidation of the entry, but no Customs officer except one making an examination contemplated by section 499, Tariff Act of 1930, as amended, shall report a supposed deficiency to the district director unless it is established to the satisfaction of the reporting officer that the merchandise was not imported.

(c) Merchandise is "permitted" when Customs has authorized the carrier to make delivery to the consignee or subsequent carrier and

(1) These parties in interest, or their agents, have made a joint determination of quantities; or

(2) The carrier, at its option, independently declares the quantity to be permitted by Customs by:

(i) Furnishing a signed statement to Customs that at least 4 days have elapsed since the cosignee or his agent was notified that Customs has authorized delivery, the merchandise was and is available for delivery, that a determination of quantity of merchandise available for delivery has been made, indicating the date on which the said determination was made; and

(ii) By filing the said statement no later than the close of business on the next working day after such determination has been made.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

In § 18.2, paragraph (b) is amended to read:

§ 18.2 Receipt by carrier; manifest.

* * * * *

(b) A manifest, Customs Form 7512, containing a description of the merchandise shall be prepared by the carrier or shipper and signed by the agent of the carrier whenever merchandise is being transported in bond. All copies of the in bond manifest shall be signed by the importing carrier or his agent and the in bond carrier or his agent to indicate the quantity delivered for transportation in bond. When there is no discrepancy between the quantity manifested by the importing carrier and the quantity delivered to the in bond carrier, the district director may authorize waiving the signatures of the parties in interest as to delivered quantities. Except as prescribed in Subpart D of Part 123 of this chapter, relating to merchandise in transit through the United States

between ports in contiguous foreign territory, a separate set shall be prepared for each entry and, if the consignment is contained in more than one conveyance, a separate set shall be prepared for each conveyance.

* * * * *

In § 18.6 paragraphs (b) and (c) are amended to read:

§ 18.6 Short shipments; shortages; entry and allowance.

* * * * *

(b) When there is a shortage of one or more packages or nondelivery of an entire shipment, and inquiry by the carrier discloses that the merchandise has been delivered directly to the consignee, entry therefor may be accepted if the merchandise can be recovered intact without any of the packages having been opened. In such cases, any shortage from the invoice quantity shall be presumed to have occurred while the merchandise was in the possession of the bonded carrier.

(c) If the merchandise cannot be recovered intact, as above specified, entry shall not be accepted and there shall be sent to the initial bonded carrier a demand for liquidated damages on Customs Form 5955–A, in the case of nondelivery of an entire shipment or on Customs Form 5931, in the case of a partial shortage.

* * * * *

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

In Part 123, § 123.9 is added as follows:

§ 123.9 Correction of manifest.

(a) *Provisions applicable.* The provisions of sections 440 and 584, Tariff Act of 1930, as amended (19 U.S.C. 1440 and 1584), relate, respectively, to post entry for correction of and to penalties for falsity or lack of a manifest. Those provisions are applicable to all vehicles and to vessels of less than 5 net tons arriving from a place outside the United States and required to file a manifest. The time limitations, requirement for notification, and the penalty provisions set forth in § 4.12 of this chapter with respect to the correction of vessel manifests are applicable to the correction of manifests of all vehicles and of vessels of less than 5 net tons arriving from a contiguous country otherwise than by sea.

(b) *Report of discrepancies.* Post entry to add to a manifest any merchandise omitted from or which does not agree with the manifest may be made on a separate copy of the cargo manifest form marked or stamped "Post Entry." Correction of a manifest to delete merchandise not found on the vehicle or vessel at the time of arrival may be made by submission of a separate copy of the cargo manifest form marked or stamped "Shortage Declaration." Such copies shall list the merchandise involved and state the reasons for the discrepancy. If a copy of the cargo manifest is not so used, Customs Form 5931 shall be used for corrections of the manifest.

(c) *Statement on manifest required.* The Post Entry or Shortage Declaration shall bear a signed statement of the person in charge of the vehicle or vessel, or an authorized agent, reading, "I declare to the best of my knowledge and belief that the overage or shortage described herein occurred for the reasons stated. I also certify that evidence to support a claim of nonimportation or proper disposition of merchandise will be retained in the carrier's files for a period of at least 1 year and will be made available to Customs on demand."

Before action is taken on the proposed amendments, consideration will be given to all relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Bureau of Customs, Washington, D.C. 20226, and received no later than 15 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

Approved: November 25, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury

[F.R. Doc. 70–16073; Filed, Nov. 30, 1970; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 730]

RICE

Determination of Acreage Allotments for 1969 and Subsequent Crops

Notice is hereby given that pursuant to the authority contained in the applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1353, 1375), the Department proposes to amend the regulations for determination of acreage allotments for 1969 and subsequent crops of rice.

The purpose of this amendment is to provide that a person who makes application for a new grower rice allotment must expect to obtain more than 50 percent of his income from farming in the crop year for which the allotment is requested.

Prior to the issuance of this amendment, any data, views, or recommendations pertaining thereto which are submitted in writing to the Director, Commodity Programs Division Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, will be given consideration provided such submissions are postmarked not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

It is proposed that the subpart—Regulations for determination of acreage allotments for 1969 and subsequent crops of rice (33 F.R. 14520), as amended, be amended as follows:

1. Section 730.69 be amended by revising the first sentence of paragraph (c) (4) and paragraph (d) (2), (3), (4), and (5) to read as follows:

§ 730.69 Determination of allotments for new producers.

* * * * *

(c) * * *

(4) He expects to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products unless the county committee, with the approval of a representative of the State committee, determines that the income of the applicant, from farming or otherwise, will not provide a reasonable standard of living for the applicant and his family. * * *

(d) * * *

(2) Credit will be allowed for estimated value of home gardens, livestock, and livestock products, poultry, or other agricultural products produced for consumption on the farm.

(3) Where the applicant is a partnership, each partner shall expect to obtain more than 50 percent of his income during the current year from farming.

(4) Where the applicant is a corporation, it shall have no major corporate purpose other than operation and ownership, where applicable, of the farm, and the officers and general manager of the corporation shall expect to obtain more than 50 percent of their income, including dividends and salary, from farming.

(5) Where the applicant is a trustee under a trust arrangement, the trustee and the beneficiary of the trust each shall expect to obtain during the current year more than 50 percent of his income from farming.

* * * * *

2. Section 730.80 be amended by revising the first sentence of paragraph (c) (4) and paragraph (d) (2), (3), (4), and (5) to read as follows:

§ 730.80 Determination of allotments for new farms.

* * * * *

(c) * * * (4) he expects to obtain, during the current year, more than 50 percent of his income from the production of agricultural commodities or products unless the county committee, with the approval of a representative of the State committee, determines that the income of the applicant, from farming or otherwise, will not provide a reasonable standard of living for the applicant and his family. * * *

(d) * * *

(2) Credit will be allowed for estimated value of home gardens, livestock and livestock products, poultry, or other agricultural products produced for consumption on the farm.

(3) Where the farm operator is a partnership, each partner shall expect to obtain, during the current year, more than 50 percent of his income from farming.

(4) Where the farm operator is a corporation, it shall have no major corporate purpose other than operation and ownership, where applicable, of the farm. The officers and general manager of the corporation shall expect to obtain more than 50 percent of their income, including dividends and salary, from farming.

(5) Where the farm operator is a trustee under a trust arrangement for a farm, the trustee and the beneficiary of the trust each shall expect to obtain during the current year more than 50 percent of his income from farming.

* * * * *

Signed at Washington, D.C., on November 24, 1970.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 70-16048; Filed, Nov. 30, 1970; 8:46 a.m.]

Consumer and Marketing Service

[7 CFR Parts 1120, 1121, 1126, 1127, 1128, 1129, 1130]

[Docket No. AO-364-A3, etc.]

MILK IN SOUTH TEXAS AND CERTAIN OTHER MARKETING AREAS

Partial Decision on Proposed Amendments to Marketing Agreements and to Orders

7 CFR Part	Market	Docket No.
1121	South Texas	AO-364-A3
1126	North Texas	AO-231-A35
1127	San Antonio	AO-232-A21
1128	Central West Texas	AO-238-A24
1129	Austin-Waco	AO-256-A17
1130	Corpus Christi	AO-259-A21
1120	Lubbock-Plainview	AO-328-A11

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in each of the marketing areas heretofore specified.

The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Dallas, Tex., June 23-25, 1970, pursuant to notice thereof issued on June 12, 1970 (35 F.R. 10022).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on October 7, 1970 (35 F.R. 16000), filed with the Hearing Clerk, U.S. Department of Agriculture, his partial recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein subject to the following modifications:

1. Under Issue No. 2 subheading (a) *Location adjustments—South Texas,* seven new paragraphs are inserted following the second paragraph after the table, the next four paragraphs are modified, the last paragraph is deleted and five new paragraphs added.

2. In Issue No. 2 subheading (b) *Zone II—North Texas,* a new paragraph is inserted after the fourth paragraph.

3. Under Issue No. 5 a new paragraph is added.

The material issues on the record relate to:

Issues affecting North Texas and South Texas orders:

1. Class I price levels.
2. Location adjustments.
3. Method of paying producers through the market administrator.
4. Interest on overdue obligations.
5. Request for emergency action with respect to issue No. 2.
6. Applicable order to regulate a plant qualified as a fully regulated plant under more than one order.

Issues affecting several orders:

7. Class I prices and basic formula price (Lubbock-Plainview, Central West Texas, San Antonio, Austin-Waco, and Corpus Christi orders).
8. Cheese price to be used in establishing certain class prices (Central West Texas, North Texas, Austin-Waco, and San Antonio).
9. An appropriate limit on location adjustments applied to the Class I price in computing the obligation of a pool plant for receipts of unregulated milk, or in computing the obligation of a partially regulated plant (Lubbock-Plainview, Central West Texas, North Texas, San Antonio, South Texas, and Corpus Christi).
10. Appropriate application of the order to milk received at a pool plant from an unregulated supply plant which in turn receives milk from a fully regulated plant where such milk has been priced and pooled (Lubbock-Plainview, Central West Texas, North Texas, San Antonio, South Texas, and Corpus Christi).
11. Criteria for excluding a handler's milk from computation of the uniform price (Lubbock-Plainview, Central West Texas, North Texas, San Antonio, South Texas, and Corpus Christi).

Other issues affecting only North Texas order:

12. Definitions of "producer" and "producer milk."
13. Definition of pool plant.
14. Classification of transfers from pool plants to other plants.
15. Shrinkage regarding fortified milk products.
16. Location at which diverted milk should be priced.

Issue affecting the San Antonio order only:

17. Classification of dumped milk.

This decision deals only with the following issues: Class I prices (Issue No. 1) and location differentials (Issue No. 2) in the North Texas order and South Texas order; location at which diverted milk should be priced pursuant to the North Texas order (Issue No. 16); and the request for emergency action on a proposed change in the South Texas order location differentials (Issue No. 5). All other issues are reserved for a later decision, including the issue of limitation on location adjustments applied to the value of Class I milk in the obligation for receipts of unregulated milk at a pool plant or in the computation of the obligation of a partially regulated plant.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

NORTH TEXAS AND SOUTH TEXAS ORDERS

1. *Class I price levels.* No change should be made in the Class I prices for the North Texas and South Texas orders at the basing points in Dallas and Houston, respectively.

The North Texas order establishes a Class I price per hundredweight in Zone I (24 counties generally comprising the western half of the marketing area) which is the basic formula price plus $2.12, plus 20 cents. In Zone II which includes the remainder of the marketing area plus Bowie and Cass Counties, Tex., and the city of Texarkana, Ark., the Class I price is 10 cents higher than in Zone I. Similarly the uniform price in Zone II is 10 cents higher than in Zone I.

The South Texas order establishes a Class I price at Houston which is the basic formula price plus $2.48, plus 20 cents. Since the basic formula price in both the South Texas and North Texas orders is the price for manufacturing grade milk in Minnesota and Wisconsin for the prior month, the South Texas order Class I price at Houston is 36 cents per hundredweight above the North Texas order Class I price at Dallas.

A handler proposal favoring reduction of the South Texas Class I price was based in part on the relative distances of the South Texas and North Texas markets from Chicago. Proponent testified that this relationship would justify a Class I price difference between North Texas and South Texas markets of only 23 cents per hundredweight instead of the present 36 cents.

An alternative handler proposal presented, in which the above handler joined, assumed that a proper intermarket relationship could be determined based on the relative distances from Hopkins County, Tex., an area of high milk production, to Dallas and to Houston. By this method, proponents stated, a difference of not more than 26 cents per hundredweight in Class I prices would be proper between these two cities. A transportation cost at a rate of 1.5 cents per 10 miles was applied to distances from Sulphur Springs in Hopkins County to Houston and Dallas to arrive at the intermarket difference.

It was contended by a cooperative association in the market, however, that since similar proposals had been recently heard in a hearing held January 6, 1970, in Houston (34 F.R. 19985) and on the basis of that record denied, therefore there could be no basis for adopting them at this time.

The notice of the January hearing did not allow a full review of Class I prices at

all plant locations for the two markets. Such hearing considered, only the South Texas order Class I price level and the North Texas Zone II Class I price. The current hearing notice is broader in scope in that it provides for a review of pricing at all locations in the two markets. The notice of the current hearing states "In view of the several proposals to modify location differentials to handlers pursuant to the North Texas and South Texas orders, consideration will be given to appropriate adjustment of the North Texas order and South Texas order Class I prices and location differentials at any point as may be necessary to coordinate the pricing at various locations pursuant to the two orders."

Official notice is taken of the decision issued August 8, 1968, by the Under Secretary (33 F.R. 11486) in which the South Texas order Class I price at Houston was established by adding to the North Texas price a differential based on distance (approximately 240 miles) from Dallas to Houston. A mileage rate of 1.5 cents per 10 miles was applied to result in an intermarket price difference of 36 cents per hundredweight. Such calculation followed the pricing pattern used previously in several other Texas Federal orders generally south of the North Texas market in establishing intermarket relationships.

The South Texas order Class I price was reviewed in the decision of the Assistant Secretary issued March 17, 1970 (35 F.R. 4866) of which official notice is taken. In that decision the following findings and conclusions were stated:

> It is concluded herein that the South Texas order Class I price should continue to be the basic formula price plus $2.48, and plus 20 cents. Such price will tend to maintain producer milk supplies now associated with the market. Within the framework of the existing procurement system which includes the regular receipt of supplementary supplies from other order markets, this price will assure an adequate supply for the market.
>
> Throughout the effective period of the order the sources of milk supply for the market have been in most respects the same as before the order. The principal part of the supply is milk received from producers' farms. Producer milk alone, however, has not been enough to supply all of handlers' Class I sales. During the first 14 months of order regulation (October 1968 through November 1969) Class I sales of handlers averaged 55 million pounds per month while producer milk supplies averaged 53 million pounds. In only 2 months have the producer milk supplies exceeded handlers' Class I use, and then by less than 2 percent, in February and November 1968. For the entire period of October 1968 through November 1969 producer receipts were 4 percent less than Class I uses of handlers. This situation resembles that which existed prior to issuance of the order. Then, also it was necessary for local handlers to receive shipments from northern Texas and Kansas areas because of the deficit of locally produced supplies.

Much of the milk production for each of the markets continues to be produced within the respective marketing areas which, in each case, includes extensive territory. Further, in the case of the South Texas market, the deficit in local farm production necessarily requires extension of the procurement area well beyond the limits of the marketing area.

Supplementary supplies for the South Texas market must be obtained from areas generally to the north of the market rather than from areas south. Additional supplies cannot be obtained economically in substantial amounts from areas to the south of the marketing area in view of the procurement competition from a higher-priced market, Corpus Christi.

In December 1969, production within the South Texas marketing area amounted to 33 million pounds. Handlers' Class I disposition, however, was 56 million pounds. About 10 million pounds of additional milk were obtained directly from farms located in the North Texas marketing area. To further fill out supply needs, South Texas market procurement of producer milk extended to dairy farmers in Arkansas, Kansas, Missouri, and Oklahoma, making total supplies of producer milk 57.7 million pounds for the month. In total, this amount only slightly exceeded handlers' Class I disposition.

For January 1970 supplies were less than Class I use, and for the following months through April 1970 producer milk receipts at South Texas plants were generally little more than handlers' Class I sales. While there was a moderately greater supply in relation to Class I utilization compared to previous periods, the data do not reflect a substantially different supply situation in this period than that at the time of the January 1970 hearing.

The South Texas market has continued to depend also on bulk receipts of other Federal order milk in the amount of 4 to 7 million pounds monthly for Class I use. A main source of other order milk has been the North Texas market. Also, route disposition from North Texas order plants into the South Texas marketing area in April 1970 was 5.5 million pounds.

While data for May 1970 show a substantial increase in producer milk in the South Texas market such data are not comparable with data previously cited for other periods. The change in May was the direct result of designation by a cooperative association in the market of two cooperative reserve plants to be pooled under the South Texas order rather than under the North Texas order or San Antonio order, respectively, where they had been previously pooled. The additional quantities of milk thus included in the market data therefore do not represent an increase in production in the region, or any basic change in the availability or cost of obtaining milk in the region for the South Texas market. As mentioned previously, supplementary supplies have been available from the North Texas and other markets in previous periods as interorder shipments.

Class I price levels in Federal orders north of Houston are generally less than the South Texas Class I price. The South Texas order f.o.b. market Class I price in the present relationship to the North Texas f.o.b. market order price, after allowance of reasonable transportation cost described elsewhere in this decision, provides a reasonable price parity between the two markets in procurement areas where the two markets both compete for milk supplies. This is principally within the North Texas marketing area where more than 100 million pounds of milk per month are produced.

For the reasons stated above and in light of the further considerations stated below in the discussion of appropriate location adjustments, the proposals of certain South Texas handlers to modify the intermarket relationship between the Dallas and Houston markets are denied.

2. *Location adjustments.*[1] The location adjustment schedule under the South Texas order should be modified. The North Texas order should be modified to remove the present 10-cent higher minimum Class I price level effective throughout Zone II and to provide in lieu thereof that the price level at any plant located in such zone shall be the Zone I class I price except that at any plant location where the South Texas order Class I price is higher, the North Texas Class I price shall be adjusted to equal the South Texas level for such location.

Location adjustments in each of the orders reasonably should reflect the cost involved in moving milk from outlying supply plants to the central market area for fluid processing and disposition. In some situations, however, the economic value of the milk to the producer at a particular location will be affected not only by transportation cost to move the milk to a regulated plant under one order, but also by his "opportunity cost", i.e., the price he can obtain by shipping to an alternative market. Unless the latter is taken in account, the milk so located may not be available to the former plant.

(a) *Location adjustments — South Texas.* Testimony at the current hearing generally supports a location adjustment rate of 1½ cents per 10 miles for the South Texas market. A milk hauler operating a fleet of tank trucks testified that his charge for transporting milk is 68 cents per mile for a truck of 46,500 pounds capacity. This is equivalent to 1.46 cents per 10 miles, thus closely approximating the rate of 1½ cents per 10 miles. Handlers and a cooperative also contracting for hauling bulk milk likewise testified that 1.5 cents per 10 miles is representative of their experience although some parties claimed higher costs had been experienced in some instances. A location adjustment rate of 1.5 cents per 10 miles is representative of economical transportation on milk moved between plants in these markets.

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[1] As used herein, the term "location adjustment" refers to an adjustment to the Class I price to the handler, and to the uniform price to the producer, in recognition of the "place" utility of milk when received at plants at various distances from the market center. It is not a "nearby farm differential."

While under the North Texas order 1½ cents per 10 miles is currently the rate of minus location adjustments for distance by shortest hard-surfaced highway from Dallas, under the South Texas order a different rate now applies at certain locations. At those points where minus location adjustments apply, the present adjustments under the South Texas order are stated for zones in terms of distance from the city hall in Houston, as follows:

Miles from city hall in Houston:	*Rates per hundred weight (cents)*
60 miles but less than 100	12
100 miles but less than 140	18
140 miles but less than 180	22
180 miles but less than 225	26

The rates of adjustment at the midpoints of the brackets for the 140–180 mile and 180–225 miles currently are somewhat less than 1½ cents per 10 miles.

As previously stated, the location adjustment rate under the South Texas order should be changed to 1½ cents per 10 miles for distance from Houston city hall. Location adjustments computed at this rate for plants lying generally north of Houston will reflect the lesser place value of milk for this market as received at more distant plants than for plants in or near Houston, and will assist in assuring uniform pricing to handlers for milk received at the market from different plant locations and in reflecting the appropriate economic value of milk to producers in consideration of the point of delivery of their milk.

Producer exceptions expressed concern, however, that the changed location adjustments proposed in the recommended decision would seriously limit the availability of milk to the South Texas market as compared to the North Texas market at the Sulphur Springs, Tex., location which is in a heavy production area. The exception claims that the new adjustments would reduce the South Texas price at this location in the common supply area of the two markets to an extent which "would eliminate the economic incentive for this milk to be attracted to the South Texas market where it is required for Class I utilization."

At Sulphur Springs there is a milk plant operated by the exceptor cooperative which has been pooled variously under the North Texas or South Texas order since the latter order was issued. The location adjustment proposed in the recommended decision for Sulphur Springs would result in an effective South Texas order Class I price at this location 3 cents per hundredweight less than under the North Texas order.

Because of the regional and overlapping character of the available supplies for both these markets, it is concluded that the price under the South Texas order should be adjusted to be the same as under the North Texas order at such location. Similarly, throughout Zone I of the North Texas order the South Texas order Class I price as adjusted should be not less than the North Texas order price. This change will assure equal opportunity for supplies in this production area to be shipped to either market as needed, insofar as location pricing is concerned. To the extent that at times the South Texas market, for instance, has greater need for the milk supply than the North Texas market, this will be reflected in the relative uniform prices of the two orders and provide an incentive for the milk to move to the market where most needed.

A cooperative association and a handler took exception also to the modified South Texas order location differentials as applied at locations in the southeastern part of the North Texas marketing area which adjoins the South Texas marketing area. The cooperative stated that because of the extensive overlapping of procurement and distribution areas of milk distributing plants located at Marshall and Tyler, Tex., the different Class I prices to producers at the two locations which would result from the differentials are not justified. Although the plants in question are regulated by the North Texas order, the pricing under the latter order at such locations, as explained under later findings and conclusions, would depend on the South Texas order Class I price level as adjusted to the same location.

Within the area referred to in the exceptions are three milk distributing plants, one at Marshall and two at Tyler. These two cities constitute the eastern and western ends, respectively, of a substantial concentration of population which includes also the cities of Longview and Kilgore.

The location value of milk in this general area (Gregg, Harrison, and Smith Counties) for the South Texas market depends principally upon the price obtainable for delivery in the central market, less cost of delivery. Local conditions of extensive procurement competition and overlapping distribution patterns of plants there located, however, tend to establish a continuity of value for milk throughout the three-country area. Further, Marshall at the eastern end of the three-county area and Tyler at the western end are about equi-distant from the corresponding eastern and western ends of the large central population area of the South Texas market, the distance from Marshall to Beaumont and Port Arthur and the distance from Tyler to Houston, respectively, being less than 10 miles different. Thus there is no significant difference in location value of milk for the South Texas market with respect to all locations within this three-county area.

For these reasons it is concluded that the amount of the South Texas order location differential should be the same for all points throughout the Gregg-Harrison-Smith three-county area. Based on the distance from the general population centers of the market the adjustment should be minus 30 cents.

The described method of computing adjustments will eliminate the broad mileage zones which now apply at certain distances beyond the inner zone (not more than 60 miles from the city halls in Houston and Beaumont, Tex.). No location adjustment applies within this latter zone which includes the densely populated areas of Houston and Beaumont where the wholesale and retail route distribution systems of major handlers extensively overlap.

Also no location adjustments apply in the areas south of U.S. Highway 90 in the counties of Colorado, Fayette, Gonzales, Lavaca, and Wharton. (See decision of March 17, 1970, previously cited.) The reason stated in such decision for making no adjustments to the price at such locations continue to apply. Although the order language to accomplish this is modified in this decision, the same effect is retained.

The plus location adjustments which apply under the South Texas order at locations south of U.S. Highway 90 are for the purpose of reflecting the higher value of milk at such locations than at Houston because of the alternative market outlets available to South Texas producer milk delivered to such locations. Milk delivered to a South Texas order plant located between Houston and Corpus Christi, for instance, has an available alternative market (Corpus Christi) with a 30-cent per hundredweight higher Class I price, f.o.b. Corpus Christi.

Currently, the plus location adjustments in this area are based on the distance of the plant from the city hall in Houston. Such plus adjustments, however, are not designed primarily to reflect the value of the milk based on delivery to Houston since milk from this area normally is not shipped to Houston for processing. Rather, its economic value to the producer is determined by the available alternative and higher-priced market outlet and if this value is not reflected in the price at such location the milk likely will not be available to a South Texas plant so located. Accordingly, the location prices under the South Texas order generally in the direction of the Corpus Christi market should result in a Class I price at any given location which is the same as the Class I price pursuant to the Corpus Christi order for the same location. To appropriately reflect the value in producer returns a similar adjustment must also be applicable to the uniform price at such locations.

An exceptor argued that the plus adjustments as provided in the recommended decision for all areas south of U.S. Highway 90 except the designated counties (Colorado, Fayette, Gonzales, Lavaca, and Wharton) would be inconsistent with the San Antonio order Class I price if a plant were located in the San Antonio marketing area but regulated by the South Texas order. Then the proposed adjustment would result in a South Texas order Class I price 7 cents per hundredweight higher within the San Antonio marketing area than the San Antonio order price.

There is no need for the South Texas order to establish a Class I price higher at the South Texas plant located in the San Antonio marketing area than the San Antonio order price. For the purpose of procuring a supply for the South

Texas market, milk is available in supply areas to the north at a lesser price level than the price prevailing at San Antonio.

The problem presented by the exceptor may be dealt with by defining in a different manner the area within which the plus differentials apply. The area in which dairy farmers are affected by the alternative opportunity to obtain the higher returns available in the Corpus Christi market includes counties directly between the South Texas and the Corpus Christi markets as well as the southern portion of the State within which the latter market is located. Accordingly the plus differentials should apply in the area south of the northern boundaries of the Texas counties of Matagorda, Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, and Dimmit.

The exceptor further hypothesized that a plant in Houston could become regulated under the San Antonio order and thus have a Class I price 24 cents per hundredweight less than South Texas order plants in the same city.

The exceptions do not show this to be an imminent problem. Marketing conditions described in the record establish that a Class I price not less than the South Texas order price is needed to obtain a supply at the Houston location.

(b) *Zone II—North Texas.* The Zone II Class I price of the North Texas order should be the same as the Zone I Class I price, except that at any specific plant location it should be not less than the applicable Class I price for such location pursuant to the South Texas order. At present the Zone II price is the Zone I price, plus 10 cents.

As previously indicated, Zone II, in addition to being part of the North Texas marketing area, also includes important, common procurement areas for both the North Texas and South Texas markets. Plants regulated by both orders receive substantial volumes of milk from farms in Zone II. One North Texas order plant located in Zone II regularly ships milk in bulk to Houston. Several milk processing plants in Zone II regulated by the North Texas order have route distribution extending into the South Texas marketing area and in the southern portion of Zone II there is overlapping distribution by plants under both orders.

While there is substantial competition between the two markets for milk supplies produced in Zone II, these conditions do not justify a Class I price level throughout Zone II 10 cents per hundredweight higher than the Class I price level in Zone I. On the other hand, it must be recognized that without any price adjustment the South Texas market would be a preferential outlet for milk supplies produced in Zone II, particularly in the central and southern portions of the zone.

North Texas order plants at the latter locations, to be assured of a supply, must pay an equivalent price since nearby producers shipping to such plants have the opportunity to shift their deliveries to the South Texas market at any time. The North Texas order accordingly should provide that for Zone II the Class I price shall be adjusted by any amount by which the applicable South Texas order Class I price at the location of the plant exceeds the North Texas Zone I price.

The modification in this decision of the South Texas order location differentials applicable in Gregg, Harrison, and Smith Counties would similarly modify the North Texas order Class I price at these locations.

In the northern part of Zone II the applicable South Texas order Class I price adjusted at the rate of location adjustments as herein adopted would be either equal to or less than the North Texas Zone I Class I price. At such locations, therefore, no adjustment would be applicable.

Prices determined for Zone II in this manner will tend to insure an orderly flow of milk to plants in both markets and insure sufficient supplies for distributing plants irrespective of their location within the widespread North Texas marketing area.

One handler proposed that location adjustments under the North Texas order be related to additional basing points at Marshall and Tyler, Tex. The purpose of the handler was to provide a lower price than presently for his partially regulated plant located in Texarkana, Tex.

The partially regulated plant of the handler is located in Zone II. The pricing changes herein adopted will result in a reduction of 10 cents per hundredweight in the effective Class I price at Texarkana compared with the price which now applies. No further adjustment of the price at this location would be appropriate on this record.

5. *Request for emergency action.* A handler requested on the record that emergency procedure be used to effectuate his proposal to amend the South Texas order. Certain other parties at the hearing opposed the adoption of such proposal.

The request for emergency action and omission of the recommended decision was appropriately denied in the recommended decision. The proposal of the handler related closely to material considerations affecting other handlers in both markets. It was thus necessary that all interested parties be given the opportunity to have notice of a recommended decision and opportunity to submit exceptions thereto.

16. *Pricing of diverted milk (North Texas order).* Milk diverted from a pool plant to a nonpool plant should be priced at the location of the plant to which diverted rather than the plant from which diverted.

The order now specifies that milk diverted from a pool plant to a nonpool plant shall be priced at the location of the plant from which diverted. Under such provision, however, milk of a producer distant from the market can be briefly associated with a pool plant in the marketing area and then be diverted to a nonpool manufacturing plant relatively near to the producer's farm. This milk obviously does not incur the transportation cost it would if moved to the marketing area at all times, but the producer nevertheless receives the marketing area uniform price designed to compensate for the delivery of milk to the marketing area.

This reduces the money to be paid to other producers whose milk is delivered to the marketing area as compared to the situation where the producer is paid on the basis of his actual point of delivery. The present arrangement encourages distant producers to have their milk delivered to a manufacturing plant near their farms rather than to the marketing area, since they nevertheless do receive the marketing area uniform price. The change as herein adopted will prevent the dissipation of pool money for transportation not performed.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing areas and the minimum prices specified in the proposed marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RULINGS ON EXCEPTIONS

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

MARKETING AGREEMENTS AND ORDER

Annexed hereto and made a part hereof are documents entitled marketing agreement regulating the handling of milk in the South Texas marketing area, marketing agreement regulating the handling of milk in the North Texas marketing area, and an order amending the order regulating the handling of milk in the South Texas and North Texas marketing areas which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreements are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

September 1970 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the South Texas and North Texas marketing areas are approved or favored by producers, as defined under the terms of the orders, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the specified marketing areas.

Signed at Washington, D.C., on November 27, 1970.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] Amending the Order, Regulating the Handling of Milk in the South Texas and North Texas Marketing Areas

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the specified marketing areas.

The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found with respect to each of the orders regulating the handling of milk in the North Texas and South Texas marketing areas that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the orders, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreements and order amending each of the specified orders contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on October 7, 1970, and published in the FEDERAL REGISTER on October 10, 1970 (35 F.R. 16000) shall be and are the terms and provisions of this order, amending the orders, as are set forth in full herein subject to the following modifications:

Amendment to the South Texas order. In § 1121.53, new language is added at the end of paragraph (a), and paragraph (b) is modified.

PART 1121—MILK IN THE SOUTH TEXAS MARKETING AREA

1. Section 1121.53 is revised as follows:

§ 1121.53 Location adjustments to handlers.

(a) For that milk which is received from producers at a pool plant located (1) in Fayette County, Tex., or (2) north of U.S. Highway 90 and 60 miles or more from the nearer of the city halls in Beaumont and Houston, Tex., by the shortest hard-surfaced highway distance, as determined by the market administrator, and which is classified as Class I milk subject to the limitations of paragraph (c) of this section, and for other source milk for which Class I location adjustment credit is applicable, the price specified in § 1121.51(a) shall be reduced 1.5 cents per 10 miles of distance or fraction thereof that such plant is located from the Houston city hall by shortest hard-surfaced highway distance as determined by the market administrator: *Provided,* That the location adjustment at a plant located in Gregg, Harrison, or Smith Counties, Tex., shall be minus 30 cents and that the location adjustment pursuant to this paragraph for any plant located in Zone I as defined in the North Texas order, Part 1126 of this chapter, shall not result in a price less than the applicable Class I price at such plant location pursuant to the North Texas order.

(b) For that milk which is received from producers at a pool plant which is beyond 60 miles from the nearer of the city halls in Beaumont and Houston, Tex., by the shortest hard-surfaced highway distance, as determined by the market administrator, and south of the northern boundaries of the Texas counties of Matagorda, Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, and Dimmit and which is classified as Class I milk subject to the limitations of paragraph (c) of this section, and for other source milk for which a Class I location adjustment is applicable, the price specified in § 1121.51(a) shall be increased by any amount by which such price is less than the applicable Class I price at the same location pursuant to Part 1130 of this chapter regulating the handling of milk in the Corpus Christi marketing area.

(c) For purposes of calculating such location adjustments transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of 95 percent of receipts at such plant from producers and cooperative associations pursuant to § 1121.12 (d), plus the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants having the same Class I price, next to transferor plants having a higher Class I price, and then in sequence to plants having a power Class I price beginning with the plant at which the highest Class I price would apply.

PART 1126—MILK IN THE NORTH TEXAS MARKETING AREA

2. Section 1126.53 is revised as follows:

§ 1126.53 Location adjustments to handlers.

(a) For that milk which is received from producers at a pool plant outside the marketing area or Bowie or Cass

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Counties, Tex., or the city of Texarkana, Ark., and 110 miles or more from the city hall in Dallas, Tex., and which is classified as Class I milk subject to the limitation of paragraph (c) of this section and for other source milk for which a Class I location adjustment credit is applicable, the price specified in § 1126.51 (a) shall be reduced at the rate of 1.5 cents for each 10 miles or fraction thereof that such plant is located from the Dallas city hall by shortest hard-surface highway distance as determined by the market administrator:

(b) For that milk which is received from producers at a pool plant within Zone II, and which is classified as Class I milk subject to the limitations of paragraph (c) of this section and for other source milk for which a Class I location adjustment is applicable, the price shall be the Zone I Class I price plus any amount by which the applicable Class I price at such location pursuant to Part 1121 of this chapter regulating the handling of milk in the South Texas marketing area exceeds the Zone I Class I price; and

(c) For purposes of calculating such location adjustments transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of 95 percent of receipts at such plant from producers and cooperative associations pursuant to § 1126.12 (c) and (d), plus the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants having the same Class I price, next to transferor plants having a higher Class I price and then in sequence to plants having a lower Class I price, beginning with the plant at which the highest Class I price would apply.

3. Section 1126.55 is revised as follows:

§ 1126.55 Pricing zones.

(a) *Zone I.* Zone I shall include all territory within the following Texas counties in the marketing area:

Bosque.	Hood.
Cooke.	Hopkins.
Collin.	Hunt.
Dallas.	Johnson.
Delta.	Kaufman.
Denton.	Lamar.
Ellis.	Limestone.
Erath.	Navarro.
Fannin.	Parker.
Freestone.	Rockwall.
Grayson.	Somervell.
Hill.	Tarrant.

(b) *Zone II.* Zone II shall include all territory in the marketing area outside of Zone I and all territory in Bowie and Cass Counties, Tex., and the city of Texarkana, Ark.

4. In § 1126.91 paragraph (b) is revised as follows:

§ 1126.91 Butterfat and location differentials to producers.

* * * * *

(b) *Location adjustments.* (1) In making payments to producers pursuant to § 1126.90 (a) or (c) the applicable uniform price computed pursuant to § 1126.72 to be paid for producer milk received at a pool plant shall be adjusted according to the location of the pool plant at the rate set forth in § 1126.53.

(2) For purposes of computation pursuant to §§ 1126.93 and 1126.94 the uniform prices shall be adjusted at the rates set forth in § 1126.53 applicable at the location of the nonpool plant from which the milk was received.

5. In § 1126.13 *Producer,* paragraph (a) (2) is revised to read as follows:

§ 1126.13 Producer.

(a) * * *

(2) Diverted by a handler for his account from a pool plant to a nonpool plant on any day during the months of January through July and on not more than half of the days of delivery during any other month. Such diverted milk shall be deemed to have been received by the diverting handler at the location of the plant to which it was diverted.

* * * * *

[F.R. Doc. 70-16149; Filed, Nov. 30, 1970; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 81]

CERTAIN AIR QUALITY CONTROL REGIONS

Proposed Designation and Redesignation of Regions; Consultation With Appropriate State and Local Authorities

Pursuant to authority delegated by the Secretary and redelegated to the Commissioner of the National Air Pollution Control Administration (33 F.R. 9909), notice is hereby given of a proposal to designate Intrastate Air Quality Control Regions in the State of Arkansas as set forth in the following new §§ 81.138–81.140 inclusive which would be added to Part 81 of Title 42, Code of Federal Regulations. It is proposed to make such designations effective upon republication.

In addition to the proposal to designate the new Intrastate Air Quality Control Region, it is proposed to revise the boundaries of the presently designated Metropolitan Fort Smith Interstate Air Quality Control Region (Arkansas-Oklahoma) (§ 81.63), as provided for in section 107(a) (2) of the Clean Air Act, as amended.

Interested persons may submit written data, views, or arguments in triplicate to the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17–82, 5600 Fishers Lane, Rockville, MD 20852. All relevant material received not later than 30 days after the publication of this notice will be considered.

Interested authorities of the States of Arkansas, Missouri, Louisiana, Oklahoma, Tennessee, Mississippi, and Texas and appropriate local authorities, both within and without the proposed regions, who are affected by or interested in the proposed designations and redesignation, are hereby given notice of an opportunity to consult with representatives of the Secretary concerning such designations and redesignation. Such consultation will take place at 10 a.m., December 10, 1970, in the Courtroom of Judge J. Smith Henley, U.S. Post Office and Courthouse, Capitol and Gaines Streets, Little Rock, AR 72203.

Mr. Doyle J. Borchers is hereby designated as Chairman for the consultation. The Chairman shall fix the time, date, and place of later sessions and may convene, reconvene, recess, and adjourn the sessions as he deems appropriate to expedite the proceedings.

State and local authorities wishing to participate in the consultation should notify the Chairman, Mr. Doyle J. Borchers, National Air Pollution Control Administration, Parklawn Building, Room 17–82, 5600 Fishers Lane, Rockville, MD 20852, of such intention at least 1 week prior to the consultation.

In Part 81 the following new sections are proposed to be added to read as follows:

§ 81.138 Central Arkansas Intrastate Air Quality Control Region.

The Central Arkansas Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arkansas:

Chicot County.	Hot Spring County.
Clark County.	Jefferson County.
Cleveland County.	Lincoln County.
Conway County.	Lonoke County.
Dallas County.	Perry County.
Desha County.	Pope County.
Drew County.	Pulaski County.
Faulkner County.	Saline County.
Garland County.	Yell County.
Grant County.	

§ 81.139 Northeast Arkansas Intrastate Air Quality Control Region.

The Northeast Arkansas Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)), geographically located within the outermost boundaries of the area so delimited):

In the State of Arkansas:

Arkansas County.	Monroe County.
Clay County.	Phillips County.
Craighead County.	Poinsett County.
Cross County.	Prairie County.
Greene County.	Randolph County.
Independence County.	Saint Francis County.
Jackson County.	Sharp County.
Lawrence County.	White County.
Lee County.	Woodruff County.
Mississippi County.	

§ 81.140 Northwest Arkansas Intrastate Air Quality Control Region.

The Northwest Arkansas Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arkansas:

Baxter County.	Marion County.
Boone County.	Montgomery County.
Carroll County.	Newton County.
Cleburne County.	Pike County.
Franklin County.	Polk County.
Fulton County.	Scott County.
Izard County.	Searcy County.
Johnson County.	Stone County.
Logan County.	Van Buren County.
Madison County.	

§ 81.63 [Amended]

The Metropolitan Fort Smith Interstate Air Quality Control Region (Arkansas-Oklahoma) (§ 81.63) presently is designated as the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arkansas:

Crawford County.	Sebastian County.

In the State of Oklahoma:

Adair County.	Le Flore County.
Cherokee County.	Sequoyah County.

It is now proposed to add Benton and Washington Counties, in the State of Arkansas, to the Region.

This action is proposed under the authority of sections 107(a) and 301(a) of the Clean Air Act, section 2, Public Law 90-148, 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a).

Dated: November 25, 1970.

JOHN H. LUDWIG,
Acting Commissioner, National Air Pollution Control Administration.

[F.R. Doc. 70-16063; Filed, Nov. 30, 1970; 8:47 a.m.]

[42 CFR Part 81]

CERTAIN AIR QUALITY CONTROL REGIONS

Proposed Designation and Redesignation of Regions; Consultation With Appropriate State and Local Authorities

Pursuant to authority delegated by the Secretary and redelegated to the Commissioner of the National Air Pollution Control Administration (33 F.R. 9909), notice is hereby given of a proposal to designate Intrastate Air Quality Control Regions in the State of Texas as set forth in the following new §§ 81.132-81.137 inclusive which would be added to Part 81 of Title 42, Code of Federal Regulations. It is proposed to make such designations effective upon republication.

In addition to the proposal to designate six new Intrastate Air Quality Control Regions, it is proposed to revise the boundaries of the presently designated Metropolitan Houston-Galveston Intrastate Air Quality Control Region (Texas) (§ 81.38), the Metropolitan Dallas-Fort Worth Intrastate Air Quality Control Region (Texas) (§ 81.39), the Metropolitan San Antonio Intrastate Air Quality Control Region (Texas) (§ 81.40), the Southern Louisiana-Southeast Texas Interstate Air Quality Control Region (§ 81.53), and the El Paso-Las Cruces-Alamogordo Interstate Air Quality Control Region (Texas-New Mexico) (§ 81.82), as provided for in section 107(a)(2) of the Clean Air Act, as amended.

Interested persons may submit written data, views, or arguments in triplicate to the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17-82, 5600 Fishers Lane, Rockville, MD 20852. All relevant material received not later than 30 days after the publication of this notice will be considered.

Interested authorities of the States of Louisiana, New Mexico, Oklahoma, and Texas, and appropriate local authorities, both within and without the proposed regions, who are affected by or interested in the proposed designations and redesignations, are hereby given notice of an opportunity to consult with representatives of the Secretary concerning such designations and redesignations. Such consultation will take place at 1 p.m., December 14, 1970, on the Fourth Floor-West End, U.S. Courthouse Building, 207 West Eighth Street, Austin, TX 78701.

Mr. Doyle J. Borchers is hereby designated as Chairman for the consultation. The Chairman shall fix the time, date, and place of later sessions and may convene, reconvene, recess, and adjourn the sessions as he deems appropriate to expedite the proceedings.

State and local authorities wishing to participate in the consultation should notify the Chairman, Mr. Doyle J. Borchers, National Air Pollution Control Administration, Parklawn Building, Room 17-82, 5600 Fishers Lane, Rockville, MD 20852, of such intention at least 1 week prior to the consultation.

In Part 81 the following new sections are proposed to be added to read as follows:

§ 81.132 Abilene-Wichita Falls Intrastate Air Quality Control Region.

The Abilene-Wichita Falls Intrastate Air Quality Control Region (Texas) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Archer County.	Kent County.
Baylor County.	Knox County.
Brown County.	Mitchell County.
Callahan County.	Montague County.
Childress County.	Nolan County.
Clay County.	Scurry County.
Coleman County.	Shackelford County.
Comanche County.	Stephens County.
Cottle County.	Stonewall County.
Eastland County.	Taylor County.
Fisher County.	Throckmorton County.
Foard County.	Wichita County.
Hardeman County.	Wilbarger County.
Haskell County.	Young County.
Jack County.	
Jones County.	

§ 81.133 Amarillo-Lubbock Intrastate Air Quality Control Region.

The Amarillo-Lubbock Intrastate Air Quality Control Region (Texas) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Armstrong County.	Hockley County.
Bailey County.	Hutchinson County.
Briscoe County.	King County.
Carson County.	Lamb County.
Castro County.	Lipscomb County.
Cochran County.	Lubbock County.
Collingsworth County	Lynn County.
	Moore County.
Crosby County.	Motley County.
Dallam County.	Ochiltree County.
Deaf Smith County.	Oldham County.
Dickens County.	Parmer County.
Donley County.	Potter County.
Floyd County.	Randall County.
Garza County.	Roberts County.
Gray County.	Sherman County.
Hale County.	Swisher County.
Hall County.	Terry County.
Hansford County.	Wheeler County.
Hartley County.	Yoakum County.
Hemphill County.	

§ 81.134 Austin-Waco Intrastate Air Quality Control Region.

The Austin-Waco Intrastate Air Quality Control Region (Texas) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Bastrop County.	Hill County.
Bell County.	Lampasas County.
Blanco County.	Lee County.
Bosque County.	Leon County.
Brazos County.	Limestone County.
Burleson County.	Llano County.
Burnet County.	McLennan County.
Caldwell County.	Madison County.
Coryell County.	Milam County.
Falls County.	Mills County.
Fayette County.	Robertson County.
Freestone County.	Travis County.
Grimes County.	Washington County.
Hamilton County.	Williamson County.
Hays County.	

§ 81.135 Brownsville-Laredo Intrastate Air Quality Control Region.

The Brownsville-Laredo Intrastate Air Quality Control Region (Texas) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Cameron County.	Webb County.
Hidalgo County.	Willacy County.
Jim Hogg County.	Zapata County.
Starr County.	

§ 81.136 Corpus Christi-Victoria Intrastate Air Quality Control Region.

The Corpus Christi-Victoria Intrastate Air Quality Control Region (Texas) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Aransas County.	Kenedy County.
Bee County.	Kleberg County.
Brooks County.	Lavaca County.
Calhoun County.	Live Oak County.
De Witt County.	McMullen County.
Duval County.	Nueces County.
Goliad County.	Refugio County.
Jackson County.	San Patricio County.
Jim Wells County.	Victoria County.

§ 81.137 Midland-Odessa-San Angelo Intrastate Air Quality Control Region.

The Midland-Odessa-San Angelo Intrastate Air Quality Control Region (Texas) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Andrews County.	Menard County.
Borden County.	Midland County.
Coke County.	Pecos County.
Concho County.	Reagan County.
Crane County.	Reeves County.
Crockett County.	Runnels County.
Dawson County.	San Saba County.
Ector County.	Schleicher County.
Gaines County	Sterling County.
Glasscock County.	Sutton County.
Howard County.	Terrell County.
Irion County.	Tom Green County.
Loving County.	Upton County.
Martin County.	Ward County.
McCulloch County.	Winkler County.

§ 81.38 [Amended]

The Metropolitan Houston-Galveston Intrastate Air Quality Control Region (Texas) (§ 81.38) presently is designated as the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Brazoria County.	Harris County.
Chambers County.	Liberty County.
Fort Bend County.	Montgomery County.
Galveston County.	Waller County.

It is now proposed to add Austin, Colorado, Matagorda, Walker, and Wharton Counties, in the State of Texas, to the Region.

§ 81.39 [Amended]

The Metropolitan Dallas-Fort Worth Intrastate Air Quality Control Region (Texas) (§ 81.39) presently is designated as the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Collin County.	Kaufman County.
Dallas County.	Parker County.
Denton County.	Rockwall County.
Ellis County.	Tarrant County.
Johnson County.	Wise County.

It is now proposed to add Cooke, Erath, Fannin, Grayson, Hood, Hunt, Navarro, Palo Pinto, and Somervell Counties, in the State of Texas, to the Region.

§ 81.40 [Amended]

The Metropolitan San Antonio Intrastate Air Quality Control Region (Texas) (§ 81.40) presently is designated as the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Bexar County.	Guadalupe County.
Comal County.	

It is now proposed to add Atascosa, Bandera, Dimmit, Edwards, Frio, Gillespie, Gonzales, Karnes, Kendall, Kerr, Kimble, Kinney, La Salle, Mason, Maverick, Medina, Real, Uvalde, Val Verde, Wilson, and Zavala Counties, in the State of Texas, to the Region.

§ 81.53 [Amended]

The Southern Louisiana-Southeast Texas Interstate Air Quality Control Region (§ 81.53) presently is designated as the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Louisiana:

Acadia Parish.	Plaquemines Parish.
Allen Parish.	Pointe Coupee Parish.
Ascension Parish.	Rapides Parish.
Assumption Parish.	St. Bernard Parish.
Avoyelles Parish.	St. Charles Parish.
Beauregard Parish.	St. Helena Parish.
Calcasieu Parish.	St. James Parish.
Cameron Parish.	St. John the Baptist Parish.
East Baton Rouge Parish.	St. Landry Parish.
East Feliciana Parish.	St. Martin Parish.
Evangeline Parish.	St. Mary Parish.
Grant Parish.	St. Tammany Parish.
Iberia Parish.	Tangipahoa Parish.
Iberville Parish.	Terrebonne Parish.
Jefferson Parish.	Vermilion Parish.
Jefferson Davis Parish.	Vernon Parish.
Lafayette Parish.	Washington Parish.
Lafourche Parish.	West Baton Rouge Parish.
Livingston Parish.	West Feliciana Parish.
Orleans Parish.	

In the State of Texas:

Hardin County.	Newton County.
Jasper County.	Orange County.
Jefferson County.	

It is now proposed to add Angelina, Houston, Nacogdoches, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, and Tyler Counties, in the State of Texas, to the Region.

§ 81.82 [Amended]

The El Paso-Las Cruces-Alamogordo Interstate Air Quality Control Region (Texas-New Mexico) (§ 81.82) presently is designated as the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

El Paso County.	Hudspeth County.

In the State of New Mexico:

Dona Ana County.	Otero County.

It is now proposed to add Brewster, Culberson, Jeff Davis, and Presidio Counties, in the State of Texas, to the Region.

This action is proposed under the authority of sections 107(a) and 301(a) of the Clean Air Act, section 2, Public Law 90-148, 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a).

Dated: November 25, 1970.

JOHN H. LUDWIG,
Acting Commissioner, National Air Pollution Control Administration.

[F.R. Doc. 70-16064; Filed, Nov. 30, 1970; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

National Highway Safety Bureau

[49 CFR Part 571]

[Docket No. 1–19; Notice 2]

HIGH SPEED WARNING AND CONTROL

Proposed Motor Vehicle Safety Standard

On October 14, 1967, the National Highway Safety Bureau published an advance notice of proposed rule making (32 F.R. 14280) concerning maximum speed controls on passenger cars, multipurpose passenger vehicles, trucks, buses, and motorcycles. The notice requested comments on requirements for maximum speed controls that would ensure reliability, correct operation and incorporation of fail-safe features without adversely affecting vehicle performance, and provide security against tampering.

On the basis of comments and information received since the publication of the advance notice, this notice proposes to amend 49 CFR Part 571, Federal Motor Vehicle Safety Standards, by adding a new standard: "High Speed Warning and Control," applicable to passenger cars, multipurpose passenger vehicles, trucks, buses, and motorcycles, and speedometers for use in those vehicles. The standard would establish requirements for high speed warning and control to deter and limit excessive vehicle speed, by informing the driver and other highway users when a vehicle is exceeding a specified speed, and by preventing a vehicle from exceeding a specified higher speed. It would also specify the maximum speed that speedometers may indicate.

A direct relationship between the fatality rate in motor vehicle accidents and motor vehicle speed, except in the 20-to-39-miles-per-hour range, has been shown in a January 1969 study entitled, "Estimated Traveling Speed and Fatalities," prepared by the Cornell Aeronautical Research Laboratory. The fatality rate increases markedly in accidents at speeds over 80 miles per hour. The study shows that 509, or 17.3 percent, of 2,948 unbelted exposed persons involved in accidents at those speeds were killed. Similarly, a direct relationship between severity of injury and vehicle speed was found in a 1964 study by David Solomon of the Bureau of Public Roads.

The effectiveness of occupant restraint systems required by Federal Motor Vehicle Safety Standards Nos. 208, 209, and 210 in preventing injuries and deaths is inversely related to vehicle speed. At high vehicle speeds, the loss of effectiveness is substantial. The standard would, for many vehicles, reduce the differential between maximum attainable vehicle speed and the speeds at which occupant restraint systems are capable of adequately protecting vehicle occupants from injury and death.

This standard is not intended to affect vehicle performance capabilities needed for safe passing, accelerating and hill climbing in accordance with present State motor vehicle speed laws. Issuance of the standard may result in substantial reduction in the cost of manufacturing vehicle power plants. The commercial pressures to manufacture vehicle power plants capable of attaining very high vehicle speeds would be eliminated by the limit on maximum vehicle speed. Instead, future vehicle power plants and drive trains could be designed to develop vehicle performance capabilities more adequately at low and middle range speeds.

The standard would not apply to motor vehicles specially equipped for use by law enforcement agencies in overtaking motorists, and identified as such by their vehicle identification numbers. In conjunction with the new proposed standard, the Bureau is considering, and hereby proposes, an amendment to Standard No. 115, Vehicle Identification Number, to specify a uniform method of designating these specially equipped vehicles within the vehicle identification number. Comments are invited on this proposal, and specifically on an appropriate method of designation.

The proposed standard would require that the vehicle horn operate, and on vehicles other than motorcycles, the vehicular hazard warning signals required by Standard No. 108 flash, continuously when an activating speed between 81 and 85 miles per hour is exceeded. In addition to alerting the driver, operation of the horn and signals would warn pedestrians and other motorists of the presence of a vehicle being driven at an excessive speed. The speed warning requirement would not apply to vehicles incapable of attaining a speed of 80 miles per hour.

The standard would require that no speedometer have graduations for, or otherwise indicate, speeds greater than 85 miles per hour. It would also require that no vehicle be able to attain a speed greater than 95 miles per hour when accelerated, under specified conditions, at maximum rate from a standing start for 5 miles or until the speed stabilizes, whichever occurs first.

The requirement for operation of the vehicular hazard warning signals at high speeds may be at variance with the present requirements of §§ 393.22 and 393.23 of the Motor Carrier Safety Regulations (49 CFR 393.22, 23). If the standard is issued as proposed, the Bureau of Motor Carrier Safety will take appropriate action to ensure that its requirements do not conflict wth the standard.

Comments are invited on this proposal, particularly on the following subjects:

1. Leadtime and costs directly related to compliance;

2. Methods for meeting the proposed maximum speed requirement; and

3. The relative cost and contribution to safety of intermittent, rather than continuous, operation of the horn when the vehicle exceeds the activating speed.

Comments should identify the docket number and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, DC 20591. It is requested, but not required, that 10 copies be submitted.

All comments received before the close of business on February 26, 1971, will be considered, and will be available for examination at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Bureau. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Bureau will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

Proposed effective date: October 1, 1972.

This notice of proposed rule making is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392 and 1407) and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on November 23, 1970.

RODOLFO A. DIAZ,
Acting Associate Director,
Motor Vehicle Programs.

§ 571.21 Federal motor vehicle safety standards.

* * * * *

HIGH SPEED WARNING AND CONTROL—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, BUSES, AND MOTORCYCLES

S1. *Purpose and scope.* This standard establishes requirements for high speed warning and control to deter and limit excessive motor vehicle speed, by informing the driver and other highway users when a vehicle is exceeding a specified speed and by preventing a vehicle from exceeding a specified higher speed. It also specifies the maximum speed that speedometers may indicate.

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, and motorcycles, and to speedometers for use in those vehicles. It does not apply to motor vehicles that are specially equipped for use by law enforcement agencies in overtaking motorists, and that are identified as such by their vehicle identification numbers.

S3. *Definition.* "Lightly loaded vehicle weight" means empty weight, plus maximum capacity of fluids necessary for operation, plus 300 pounds (including driver and instrumentation), with the added weight distributed in the front seat area.

S4. *Requirements.*

S4.1 *Speed warning.*

S4.1.1 Except as provided in S4.1.2, each vehicle's horn shall operate, and on vehicles other than motorcycles, the vehicular hazard warning signals required by Motor Vehicle Safety Standard No. 108 shall flash, continuously when the vehicle exceeds an activating speed, which shall be not less than 81 nor more than 85 miles per hour.

S4.1.2 The requirements of S4.1.1 shall not apply to vehicles whose maximum speed, when tested under the conditions of S5, is less than 80 miles per hour.

S4.2 *Horn.* Each vehicle shall be equipped with a horn.

S4.3 *Speedometer.*

S4.3.1 Each vehicle shall be equipped with a speedometer graduated in miles per hour.

S4.3.2 No speedometer shall have graduations for, or otherwise indicate, speeds greater than 85 miles per hour. (See Figures 1 and 2 for examples of conforming and nonconforming speedometers.)

S4.4 *Maximum speed.* Each vehicle shall have a maximum speed, when tested under the conditions of S5, that is not greater than 95 miles per hour.

S5. *Speed test conditions.* Where a range of conditions is specified, the vehicle shall be capable of meeting applicable requirements at all points within the range.

S5.1 Vehicle is at lightly loaded vehicle weight except that the fuel tank is filled to any level between 90 and 100 percent of capacity.

S5.2 Fuel and lubricants are selected and adjustments are made according to the manufacturer's recommendations.

S5.3 Power plant break-in is completed according to the manufacturer's recommendations.

S5.4 Engine is at normal operating temperature.

S5.5 No accessories, lamps or auxiliary equipment are operating except those essential for vehicle operation.

S5.6 Ambient temperature is between 59 and 85 degrees Fahrenheit, ambient dry barometric pressure is between 28.50 and 29.50 inches of mercury, and ambient relative humidity is between 30 and 60 percent.

S5.7 The roadway lane has a grade of zero percent and the road surface has a skid number of 75.

S5.8 Wind velocity is zero.

S5.9 The vehicle is accelerated at maximum rate from a standing start for 5 miles or until the speed stabilizes, whichever occurs first.

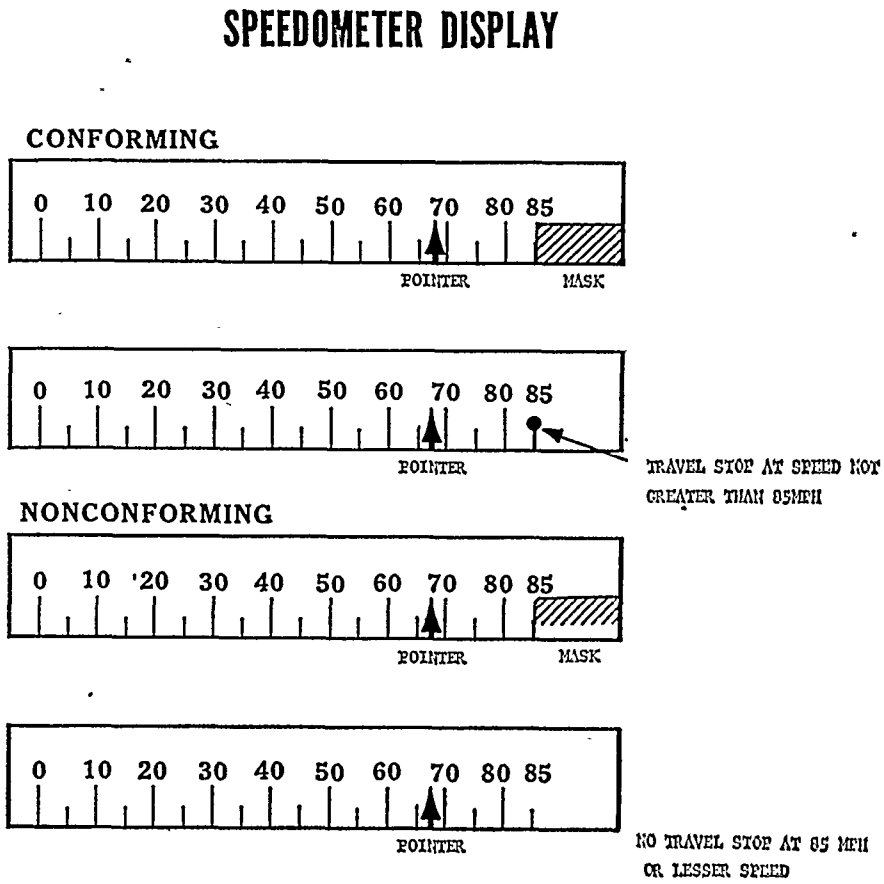
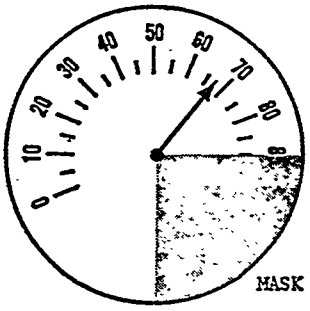
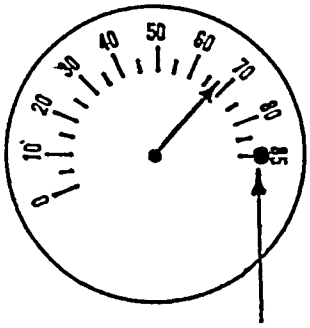


FIGURE 1

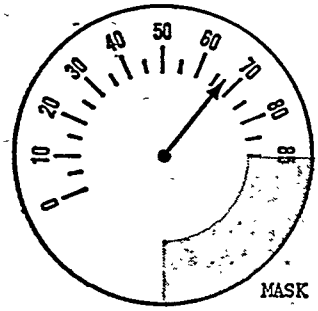
SPEEDOMETER DISPLAY

CONFORMING





NONCONFORMING



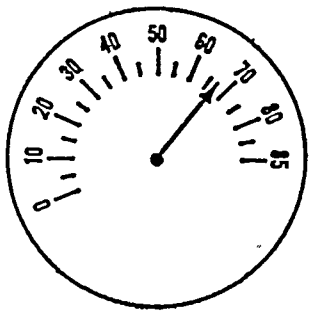


FIGURE 2

[F.R. Doc. 70-15929; Filed, Nov. 30, 1970; 8:45 a.m.]

[49 CFR Part 517]

[Docket No. 70-27; Notice 2]

HYDRAULIC BRAKE SYSTEMS

Proposed Motor Vehicle Safety Standard; Correction

In 35 F.R. 17345 (Wednesday, Nov. 11, 1970), item 12 in Table I—Brake Test Procedure Sequence and Requirements (p. 17349) is corrected as follows:

Sequence	Test procedure	Requirements
• • •	• • •	• • •
12. Second reburnish	S6.13	

This notice of correction is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407) and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on November 25, 1970.

RODOLFO A. DIAZ,
Acting Associate Director, Motor Vehicle Programs.

[F.R. Doc. 70-16066; Filed, Nov. 30, 1970; 8:47 a.m.]

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

[1 CFR Part 16]

PREPARATION AND TRANSMITTAL OF DOCUMENTS

Proposed Summary Statements

Over the years many persons have pointed out that the FEDERAL REGISTER is a difficult document for the average layman to use. Comments and criticisms along this line have increased in the recent past in direct proportion to the growing interest in consumer affairs. Thus, many persons have pointed out that the impact of significant governmental actions is frequently lost on the general public even though the Federal agency concerned has published both its proposed and final action in the FEDERAL REGISTER. To some extent this problem is inherent in the FEDERAL REGISTER system since the daily issue is, for the most part, a collection of legal documents. The Administrative Committee recognizes that the FEDERAL REGISTER cannot be made as appealing as a daily newspaper any more than can the legal notices section of a daily newspaper be made as appealing as the front page. Nevertheless, the Committee has determined that steps can be taken to make the daily FEDERAL REGISTER more usable for those readers who are not lawyers or technical experts in the particular subject area to which a document is addressed.

The Committee believes that the inclusion of a list of "Highlights" in each issue that are briefly described in meaningful, easily understood terms would be one step in this direction.

Therefore, for the purpose of improving the clarity and usefulness of the FEDERAL REGISTER, the Administrative Committee of the Federal Register proposes to add a new § 16.25 to Title 1 of the Code of Federal Regulations. This new section would require that a brief statement written in layman's language describing the contents, accompany certain documents submitted for publication in the FEDERAL REGISTER. This brief statement would consist of a catchword or phrase descriptive of the overall subject of the document followed by a single sentence or phrase summarizing the contents of the document.

Terms such as "Pay TV," "Truth-in-Lending," "Consumer Protection," "Freedom of Information," "The Pill," and "Medicare" would be encouraged for the descriptive catchword or phrase. Following are examples of summary statements or phrases used with such terms:

THE PILL. Labeling and information requirements for packages of contraceptive pills.

MEDICARE. Monthly premium rates increased.

THE ENVIRONMENT. Required use of unleaded and low-lead gasoline in Federally owned vehicles.

The Administrative Committee of the Federal Register believes that these concise statements should be prepared by the agencies issuing the documents since the authors of a particular document are best qualified to explain its contents. The Administrative Committee also believes that since many agencies explain their administrative issuances in press releases, the proposed amendment would not impose any undue burden or measurable expense on promulgating agencies. In many cases agencies would be able to use the caption or short title provided in accordance with § 17.27 or § 18.5 of the Administrative Committee's regulations.

The Administrative Committee recognizes that a requirement for preparation and submittal of a summary statement would not be justified for certain documents. Therefore, the proposed requirement has been written to exclude documents of a nonsubstantive or editorial nature. Provision is also made for obtaining additional exceptions from the Director of the Federal Register if an agency can show that a document or class of documents is of such a character that preparation of a separate summary would not be of any particular benefit to the public.

If this proposal is adopted, then the Office of the Federal Register would incorporate the summary statements, on a selected basis, into a new finding aid entitled "Highlights in this Issue" in each daily FEDERAL REGISTER.

The Administrative Committee is interested in obtaining the views of both the affected agencies and the general public on this proposal. Consideration will be given to any relevant data or comments which are presented in writing and received not later than January 12, 1971. Comments should be addressed to the Director of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

The text of the proposed amendment follows:

SUMMARY STATEMENTS

§ 16.25 Summary statements.

(a) Except as provided in paragraph (b) of this section, each agency that submits a document for publication in the FEDERAL REGISTER shall furnish with the document duplicate copies of a descriptive catchword or phrase and a brief statement, consisting whenever possible of a single sentence or phrase, that summarizes the principal subject of the document. This requirement is in addition to the heading requirements in Parts 17 and 18 of this chapter. The following are examples of summary statements:

THE PILL. Labeling and information requirements for packages of contraceptive pills.

MEDICARE. Monthly premium rates increased.

THE ENVIRONMENT. Required use of unleaded and low-lead gasoline in Federally owned vehicles.

(b) A summary statement need not be filed with a document that is nonsubstantive or editorial in nature. Additional exceptions to this requirement may be granted by the Director of the Federal Register upon application of an agency and upon a showing by the agency that a document or class of documents is of such character that preparation of separate summary statements would not be of any particular benefit to the public.

By order of the Administrative Committee of the Federal Register.

FRED J. EMERY,
Secretary.

[F.R. Doc. 70-16042; Filed, Nov. 30, 1970; 8:45 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C-11562]

COLORADO

Notice of Classification of Public Lands for Multiple-Use Management

NOVEMBER 19, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18), and to the regulations in 43 CFR Part 2400, the public lands within the area described below are hereby classified for multiple-use management. Publication of this notice has the effect of segregating all the described public lands from appropriation only under the agricultural land laws (43 U.S.C., Parts 7 and 9; 25 U.S.C., sec. 334), and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171). The lands described shall remain open to all other forms of appropriation including the mining and mineral leasing laws. As used herein "public lands" means any lands withdrawn or reserved under Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269) as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. No adverse comments were received following publication of the notice of proposed classification (35 F.R. 15314). The public lands classified are shown on maps on file in the Montrose District Office, Bureau of Land Management, Highway 550 South, Montrose, CO 81401, and the Colorado Land Office, Bureau of Land Management, Federal Building, 19th and Stout Streets, Denver, CO 80202.

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

OURAY COUNTY

T. 44 N., R. 8 W.,
Sec. 2, lots 1 and 2, SE¼NE¼, NE¼SE¼;
Sec. 11, lots 12, 13, and 14;
Sec. 13, lots 17 and 31.
T. 44 N., R. 9 W.,
Sec. 4, lot 1, SE¼NE¼, SW¼SE¼, SE¼SE¼, and NE¼SE¼;
Sec. 9, N½NE¼, SW¼NE¼, and SW¼SE¼.
T. 45 N., R. 7 W.,
Sec. 9, SE¼SW¼;
Sec. 16, W½NE¼, E½NW¼, and S½.
T. 45 N., R. 8 W.,
Sec. 3, SW¼NE¼, lot 4, S½NW¼, N½SW¼, and SE¼SW¼;
Sec. 4, lot 1;
Sec. 9, NW¼SE¼;
Sec. 26, lots 5 and 6;
Sec. 35 W½E½, E½NW¼, NW¼NW¼ that portion east of highway, NE¼SW¼, and SE¼SE¼;
Sec. 36.
T. 46 N., R. 8 W.,
Sec. 1, lots 9, 10, and 11;
Sec. 2, lots 9 to 21, inclusive;
Sec. 3, lots 9 to 24, inclusive;
Sec. 4, lots 1, 2, 3, 4, S½N½, N½S½, SE¼SW¼, SW¼SE¼, and SE¼SE¼;
Sec. 5, lots 2, 3, 4, S½NW¼, SW¼, and W½SE¼;
Sec. 6;
Sec. 7, N½;
Sec. 8, W½NE¼, NW¼, and SW¼;
Sec. 11, lots 1, 2, 3, 4, and 5;
Sec. 15, N½NE¼ and NE¼NW¼;
Sec. 21, SW¼SW¼, E½NE¼SE¼ portions thereof, SE¼SE¼ portions thereof;
Sec. 22, SE¼SE¼, and W½SW¼;
Sec. 23, SW¼SW¼.
T. 46 N., R. 8 W.,
Sec. 24, NW¼NW¼;
Sec. 26, W½NW¼ and SE¼NW¼;
Sec. 27, E½E½, SW¼SE¼, SE¼SW¼ portion thereof, and NW¼NW¼;
Sec. 28, W½NW¼, E½SW¼, W½SE¼, and NE¼NE¼;
Sec. 33, N½NE¼, NE¼NW¼, SE¼NW¼, and NE¼SW¼;
Sec. 34, NE¼, NW¼ portions thereof, and S½;
Sec. 35, SW¼SW¼.
T. 46 N., R. 9 W.,
Sec. 1, NE¼, E½NW¼, N½SE¼, and SE¼SE¼;
Sec. 12, NE¼NE¼.
T. 47 N., R. 7 W.,
Sec. 15, W½SW¼SW¼ within Ouray County;
Sec. 16, E½SE¼ within Ouray County, and SE¼SW¼;
Sec. 21, NE¼, E½NW¼, NE¼SW¼, NE¼SE¼, NW¼SE¼, SE¼SE¼ within Ouray County;
Sec. 22, W½W½W½ within Ouray County;
Sec. 33, lot 8;
Sec. 34, lots 4, 5, 6, 11, 12, 13, and 14.
T. 47 N., R. 8 W.,
Sec. 14, NW¼SW¼;
Sec. 15, W½SE¼ and NE¼SW¼;
Sec. 19, NE¼SE¼;
Sec. 21, NW¼NW¼, S½NW¼, and S½;
Sec. 22, E½NE¼, S½NW¼, and S½;
Sec. 23, SW¼SW¼;
Sec. 26, W½NW¼, NW¼SW¼;
Sec. 27;
Sec. 28, NE¼, E½NW¼, NE¼SW¼, SW¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 29, SW¼NW¼ and SE¼SE¼;
Sec. 30, S½NE¼ and S½;
Sec. 31;
Sec. 32, SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
Sec. 33, S½NW¼, SW¼, NW¼SE¼, and S½SE¼;
Sec. 34, SE¼NE¼, NE¼SW¼, and S½S½;
Sec. 35, SW¼NE¼, S½NW¼, N½SW¼, SW¼SW¼, and E½SE¼;
Sec. 36, W½SW¼.

The area described aggregates approximately 14,744 acres of public land in Ouray County, Colo.

3. For a period of 30 days from date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3. For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM, 320, Washington, DC 20240.

E. I. ROWLAND,
State Director.

[F.R. Doc. 70-15891; Filed, Nov. 30, 1970; 8:45 a.m.]

[C-11565]

COLORADO

Notice of Classification of Public Lands for Transfer Out of Federal Ownership

NOVEMBER 20, 1970.

1. Pursuant to the act of September 19, 1964 (43 U.S.C. 1411–18), and to the regulations in 43 CFR Parts 2400, 2410, 2430, and 2450.3 (formerly Parts 2410 and 2411), the public lands described below are hereby classified for disposal under the specific law or laws cited. As used herein "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

2. Publication of this notice segregates the described lands from all forms of disposal under the public land laws, including location under the mining laws, except the forms of disposal for which it classifies the lands. Publication will not alter the applicability of the public laws governing the use of the lands under lease, license, or governing the disposal of their mineral and vegetative resources other than under the mining laws.

3. This classification was arrived at by a county-appointed Public Land Classification Committee, composed of local citizens, working with local agency representatives and individuals. Information derived from field data and the deliberations of the committee indicates that these lands meet the criterion of 43 CFR Parts 2400, 2410, 2430 and 2460 (formerly Parts 2410 and 2411) which authorize classification of lands for disposal under appropriate authority where they are found to be chiefly valuable for exchange or public sale for grazing use and other values, and which lands are not needed for the support of a Federal program.

4. Information concerning the lands, including the record of committee recommendations and the staff report, is available for inspection and study at the Montrose District Office, Bureau of Land Management, Highway 550 South, Montrose, CO 81401.

5. Lands hereby classified for exchange only under section 8 of the Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315g), are described as follows:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

T. 44 N., R. 8 W.,
Sec. 14, N½NW¼NE¼SE¼.
T. 44 N., R. 9 W.,
Sec. 2, SW¼NW¼;
Sec. 11, NW¼NW¼.
T. 46 N., R. 7 W.,
Sec. 19, lot 4, SE¼SW¼;
Sec. 30, lot 1, NE¼NW¼.

T. 46 N., R. 8 W.,
Sec. 23, NE¼SE¼;
Sec. 24, SW¼NE¼, SE¼NW¼, N½SW¼, SE¼SW¼, and SE¼;
Sec. 25, NE¼NE¼.

The area described contains 697.38 acres.

6. Lands hereby classified for sale under section 2455 Revised Statutes (43 U.S.C. 1171) are described as follows:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

T. 45 N., R. 8 W.,
Sec. 23, lot 2.
T. 45 N., R. 9 W.,
Sec. 27, SE¼NE¼.
T. 46 N., R. 7 W.,
Sec. 32, NW¼SE¼.
T. 46 N., R. 9 W.,
Sec. 15, NE¼NE¼;
Sec. 23, SE¼NW¼.
T. 47 N., R. 9 W.,
Sec. 36, NE¼SW¼.

The area described contains 239 acres.

7. Lands hereby classified for either exchange under section 8 of the Taylor Grazing Act (43 U.S.C. 315g) or for sale under section 2455 Revised Statutes (43 U.S.C. 1171) are described as follows:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

T. 45 N., R. 9 W.,
Sec. 14, SW¼SE¼;
Sec. 23, E½NW¼.

The area described contains 120 acres.

8. As provided in 43 CFR 2201.1 and 2201.2, no application for an exchange for the lands described in paragraphs 5 and 7 above will be accepted until the lands have been classified and the application is accompanied by a statement from the Montrose District Manager, Bureau of Land Management that the proposal appears feasible.

9. The following lands are hereby classified for sale or lease under the Recreation and Public Purposes Act (43 U.S.C. 869.1–3).

T. 44 N., R. 8 W.,
Sec. 13, lots 28 and 30;
Sec. 14, S½NE¼SE¼, S½NW¼NE¼SE¼, NE¼NE¼SE¼, and SE¼SE¼.
T. 45 N., R. 8 W.,
Sec. 3, lot 3;
Sec. 8, SE¼SW¼.
T. 45 N., R. 9 W.,
Sec. 24, NE¼SW¼ and NW¼SE¼.
T. 47 N., R. 9 W.,
Sec. 24, NE¼SE¼.

The area described contains 347.40 acres.

10. The following described lands are hereby classified for sale under the Unintentional Trespass Sale Act of September 26, 1968 (82 Stat. 870).

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

T. 45 N., R. 8 W.,
Sec. 35, that portion west of the highway in the W½SW¼NW¼NW¼ and aggregating less than 5 acres.

The areas described aggregate 1404 acres of public lands in Ouray County, Colo.

11. For a period of 30 days from date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3. For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM, 320, Washington, DC 20240.

E. I. ROWLAND,
State Director.

[F.R. Doc. 70–15892; Filed, Nov. 30, 1970; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

KING LIVESTOCK AUCTION CO. ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Name, location of stockyard and date of posting

King Livestock Auction Company, Florence, Ala., May 28, 1959.
Falmouth Stockyards, Falmouth, Ky., Dec. 28, 1959.
Mississippi Livestock Producers Assn. (South Barn), Jackson, Miss., Jan. 7, 1959.
Beaver Valley Livestock Commission Co., Inc., Beaver City, Nebr., May 25, 1960.
Orchard Livestock Commission Co., Orchard, Nebr., Apr. 6, 1959.
Schuyler Livestock Pavilion, Schuyler, Nebr., May 14, 1962.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not depositing promptly a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 24th day of November 1970.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 70–16078; Filed, Nov. 30, 1970; 8:48 a.m.]

LOS ANGELES PRODUCERS STOCKYARDS ET AL.

Proposed Posting of Stockyards

The Chief, Registrations, Bonds, an Reports Branch, Packers and Stockyard Administration, U.S. Department of Ag riculture, has information that the live stock markets named below are stock yards as defined in section 302 of th Packers and Stockyards Act, 1921, a amended (7 U.S.C. 202), and should b made subject to the provisions of the Ac

Los Angeles Producers Stockyards, Ontari Calif.
Carroll County Livestock Sales Barn, In Carrollton, Ga.
Southeastern Livestock Market, Inc., Covin ton, Ga.
Green Valley Pig Market, Inc., Glasgow, K
Top Livestock Auction, Edgerton, Minn.
Fruitland Livestock Auction, Inc., Fruitlan Mo.
Tri-County Livestock Auction Co., Dickso Tenn.

Notice is hereby given, therefore, th the said Chief, pursuant to authorit delegated under the Packers and Stock yards Act, 1921, as amended (7 U.S. 181 et seq.), proposes to issue a ru designating the stockyards named abo as posted stockyards subject to the pr visions of the Act as provided in sectic 302 thereof.

Any person who wishes to subm written data, views, or arguments co cerning the proposed rule, may do so filing them with the Chief, Registration Bonds, and Reports Branch, Packers a Stockyards Administration, U.S. Depar ment of Agriculture, Washington, D. 20250, within 15 days after publicati in the FEDERAL REGISTER.

All written submissions made pursua to this notice shall be made available f public inspection at such times a places in a manner convenient to t public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 24 day of November 1970.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 70–16079; Filed, Nov. 30, 19 8:48 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

CONVERSION OF VESSELS AND CO PUTATION OF FOREIGN COST

Notice of Intent

Conversion of C4–S–69a vessels to C S–69c vessels and computation of fo eign cost.

Notice is hereby given of the intent the Maritime Subsidy Board to compu the estimated foreign costs of the co version of C4–S–69a vessels to C6–S–6 vessels pursuant to the provisions of se tion 502(b) of the Merchant Marine A 1936, as amended.

Any person, firm or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on January 5, 1971, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235.

Dated: November 25, 1970.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 70-16075; Filed, Nov. 30, 1970; 8:48 a.m.]

National Oceanic and Atmospheric Administration

[Docket No. S-521]

NATHAN IRA KLINEFELTER

Notice of Loan Application

NOVEMBER 24, 1970.

Nathan Ira Klinefelter, Route 1, Box 830, Brookings, OR 97415, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new 43-foot length over-all fiber glass vessel to engage in the fishery for salmon, albacore, and Dungeness crab.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, DC 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.

[F.R. Doc. 70-16068; Filed, Nov. 30, 1970; 8:47 a.m.]

[Docket No. G-478]

ST. JUDE, INC.

Notice of Loan Application

NOVEMBER 24, 1970.

St. Jude, Inc., Post Office Box 105, Bayou La Batre, AL 36509, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 72-foot length over-all wood vessel to engage in the fishery for shrimp.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, DC 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.

[F.R. Doc. 70-16069; Filed, Nov. 30, 1970; 8:47 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ACTING REGIONAL COUNSEL FOR REGION X (SEATTLE)

Designation

N. Baxter Jenkins, Area Counsel, Seattle Area Office, Region X, is designated to serve as Acting Regional Counsel in Region X during the present vacancy in the position of Regional Counsel, Region X, with all the powers, functions, and duties redelegated or assigned to the latter position.

(Assistant Secretary for Administration's redelegation to Regional Administrators effective May 4, 1969)

This designation is effective as of September 1, 1970.

OSCAR PEDERSON,
Regional Administrator,
Region X.

[F.R. Doc. 70-16055; Filed, Nov. 30, 1970; 8:46 a.m.]

CERTAIN HUD EMPLOYEES IN REGION VI (SAN FRANCISCO)

Redelegation of Authority To Administer Oaths Under Title VIII (Fair Housing) of Civil Rights Act of 1968

Each of the following named employees in the San Francisco Regional Office, Department of Housing and Urban Development, is hereby authorized to administer oaths under section 811(a) of the Civil Rights Act of 1968, Public Law 90-284, 42 U.S.C. 3611(a):

1. Floyd C. Covington.
2. Lee A. Merriwether.
3. Sara J. Swanson.
4. Robert C. Magnusson.
5. June C. Radtke.
6. Richard T. Williams.
7. Marvin R. Smith.
8. Wellan E. Potts.
9. Thomasina W. Williams.
10. Frances F. Tashquinth.
11. Robert Jeffrey.

This redelegation of authority supersedes the redelegation effective March 1, 1970, 35 F.R. 6158, April 15, 1970.

(Redelegation of authority by Regional Administrator effective May 4, 1970 (35 F.R. 14414, September 12, 1970))

Effective date. This redelegation of authority shall be effective as of May 4, 1970.

CLIFTON JEFFERS,
Assistant Regional Administrator for Equal Opportunity, San Francisco Regional Office.

[F.R. Doc. 70-16056; Filed, Nov. 30, 1970; 8:46 a.m.]

CERTAIN HUD EMPLOYEE IN REGION VI (SAN FRANCISCO)

Redelegation of Authority To Administer Oaths Under Title VIII (Fair Housing) of Civil Rights Act of 1968

The following named employee in the San Francisco Regional Office, Department of Housing and Urban Development, is hereby authorized to administer oaths under section 811(a) of the Civil Rights Act of 1968, Public Law 90-284, 42 U.S.C. 3611(a):

Curtis G. Oler.

(Redelegation of authority by Regional Administrator effective May 4, 1970 (35 F.R. 14414, September 12, 1970))

Effective date. This redelegation of authority shall be effective as of June 15, 1970.

CLIFTON JEFFERS,
Assistant Regional Administrator for Equal Opportunity, San Francisco Regional Office.

[F.R. Doc. 70-16057; Filed, Nov. 30, 1970; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

NUCLEAR MATERIALS AND PROPULSION OPERATION SITE

Trespassing on Commission Property; Revocation of Notice

The notice with respect to the Nuclear Materials and Propulsion Operation Site of the Atomic Energy Commission dated March 23, 1967, appearing at pages 5382-5383 of the FEDERAL REGISTER of March 30, 1967, 32 F.R. 5382 (F.R. Doc. 67-3467), is hereby revoked.

Dated at Germantown, Md., this 20th day of November 1970.

R. E. HOLLINGSWORTH,
General Manager.

[F.R. Doc. 70-16035; Filed, Nov. 30, 1970; 8:45 a.m.]

OAK RIDGE OPERATIONS OFFICE

Trespassing on Commission Property

The notice concerning unauthorized entry into or upon certain installations and facilities of the Oak Ridge Operations Office of the Atomic Energy Commission dated October 12, 1965, appearing at pages 13285–13287 of the FEDERAL REGISTER of October 19, 1965, 30 F.R. 13285 (F.R. Doc. 65–11108), and amended at page 5384 of the FEDERAL REGISTER of March 30, 1967, 32 F.R. 5384 (F.R. Doc. 67–3473), is hereby further amended in the following respects:

1. The description of the Atomic Energy Commission installation described as the main AEC Administration Building (30 F.R. 13286, column 3) is deleted and in its stead the following is inserted:

The Atomic Energy Commission offices located in the Federal Office Building in the Eighth Civil District of Anderson County, Tenn., within the corporate limits of the city of Oak Ridge on the south side of the Oak Ridge Turnpike between Administration Road and Laboratory Road. The portion of the said Federal Office Building which is occupied by the Atomic Energy Commission is more particularly described as: All of the basement, ground, first, second, and third floors except the basement, ground, and first floors of the west wing.

2. The following facilities are added to this notice:

The Atomic Energy Commission building known as the USAEC–ORO Records Holding Area (Building No. 2714–H) located in the Eighth Civil District of Anderson County, Tenn., within the corporate limits of the city of Oak Ridge, at 250 Laboratory Road.

The Atomic Energy Commission facility known as the AEC Patrol Motor Pool Parking Lot located in the Eighth Civil District of Anderson County, Tenn., within the Corporate limits of the city of Oak Ridge on the north side of Laboratory Road. Said facility consists of a parcel of land of approximately 1 acre, the southwest corner of which is approximately 615 feet east of the intersection of Laboratory Road and Administration Road. It is bounded on the south by Laboratory Road and on the east, north and west by Government-owned land. It is enclosed by a chain link fence 6 feet high, topped by three strands of barbed wire.

Dated at Germantown, Md., this 20th day of November 1970.

R. E. HOLLINGSWORTH,
General Manager.

[F.R. Doc. 70–16033; Filed, Nov. 30, 1970; 8:45 a.m.]

[Docket No. 50–206]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS & ELECTRIC CO.

Notice of Issuance of Amendment to Facility License

The Atomic Energy Commission ("the Commission") has issued, effective as of the date of issuance, Amendment No. 3 to Provisional Operating License No. DPR–13 dated March 27, 1967. The license authorizes Southern California Edison Co. and the San Diego Gas & Electric Co. to possess and operate the San Onofre Nuclear Generating Station Unit No. 1 located in San Diego, Calif. Amendment No. 2 issued August 14, 1970, authorized the licensees to receive and possess 47 kilograms of plutonium contained in four new uranium-plutonium mixed-oxide fuel assemblies. Amendment No. 3 authorizes the use of these fuel assemblies in the reactor core.

The new assemblies will be installed into Cycle 2 of the reactor core at the facility. Appended to the amendment are changes to the Technical Specifications which authorize a "checkerboard loading" as well as the use of mixed-oxide assemblies in the Cycle-2 fuel loading. The effect of the changes on the reactor are minimal and there will be no undue risk to the general public.

The Commission has found that the application for the amendment complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations published in 10 CFR Chapter I. The Commission has made the findings required by the Act and the Commission's regulations which are set forth in the amendment, and has concluded that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

Within fifteen (15) days from the date of publication of the notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) the licensee's application for license amendment dated June 19, 1970, and (2) the amendment to the provisional operating license, which are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC. Copies of the amendment may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 13th day of November 1970.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 70–16067; Filed, Nov. 30, 1970; 8:47 a.m.]

SPENT FUELS

Chemical Processing and Conversi

This notice amends a similarly entitl notice published January 3, 1968, 33 F. 30, and as amended in 35 F.R. 8715 June 8, 1970, which sets forth the esse tial terms of the Atomic Energy Comm sion's undertaking with respect to t receipt of irradiated reactor fuels a blanket materials and to the making a settlement therefor. This amendm extends the settlement period for search type fuels, provides charges a settlement policy for uranium-zirconi hydride fuels, and presents revised u nium hexafluoride conversion charges.

1. Delete the words "December 1970, or such later date as the Comm sion may determine if commercial pr essing services are not reasonably ava able" in paragraph 3.c. of said notice a substitute in lieu thereof the date "D cember 31, 1977".

2. Delete paragraph 7.d. of the n notice and substitute in lieu thereof following:

A charge for the conversion to uraniu hexafluoride of the purified nitrate o of uranium (except uranium enriched the isotope uranium-233) produced the AEC in its processing of reac materials as follows:

1. Conversion of purified low-enri ment uranyl nitrate into UF_6; $5.60 kilogram contained uranium.

2. Conversion of purified high-enri ment uranyl nitrate into UF_6; $100 kilogram contained uranium.

As used in this section "low-enri ment uranium" mean 5 percent weight) and less of U^{235} in total uraniu and "high enrichment uranium" me more than 5 percent (by weight) of in total uranium.

3. Delete paragraph 10. of said not and substitute in lieu thereof following:

10.a. Notwithstanding anything to contrary appearing in this notice, charges for chemical processing only the spent fuels stipulated below of type which the assumed plant can pr ess shall be as follows:

(1) For enriched uranium (other th uranium-233)—aluminum alloy fu $145 per kilogram of the total weight uranium and aluminum metal contai in the processing batch: *Provided,* T the processing batch contains less th 400 kilograms of total weight of urani and aluminum metal and the uraniu 235 content of the processing batch d not exceed 10 percent of the total wei of the uranium and aluminum meta

(2) For aluminum-clad uraniu zirconium hydride fuel types discha from research reactors; $160 per k gram of the total weight of uraniu zirconium hydride and aluminum m contained in the processing batch.

(3) For stainless-steel clad uraniu zirconium hydride fuel types dischar from research reactors; $145 per k gram of the total weight of uraniu zirconium hydride and stainless-s metal contained in the processing bat

(4) In lieu of processing uraniu zirconium hydride fuel types contain leased uranium which belongs to

AEC, a person may elect to make financial settlement with the Commission based on the value of uranium in the irradiated fuel and dispose of the fuel in accordance with Commission regulations. If such a person is unable to reach agreement with a U.S. commercial disposal (burial) service, and if such a person considers that the terms and conditions, including charges, for fuel disposal services offered by a U.S. commercial service are unreasonable, the AEC would, upon such a person's request, review such proposed terms and conditions, including charges and determine whether the required services are available at reasonable terms and charges. Should the AEC determine that the required services are not available at reasonable terms and charges, the AEC would agree to provide disposal services for uranium-zirconium hydride fuels at a charge of $20 per kilogram of total weight, f.o.b. National Reactor Testing Station, Idaho. Research reactor operators that own their fuel may elect to write off the value of the contained SNM and accept this disposal service. Additional information concerning the Commission's disposal service may be obtained from the Manager, Idaho Operations Office, U.S. Atomic Energy Commission, Idaho Falls, ID 83401.

b. The AEC will periodically review the respective charges described in paragraph 10.a. (1), (2), (3), and (4) above to determine the extent, if any, to which they should be adjusted and publish such adjustments as deemed necessary.

c. All other charges provided for in this notice, such as for conversion, losses of material, and use charges, shall apply to any processing batches of spent fuel covered in paragraph 10.a. The provisions of paragraph 10.a. shall be applicable only in the event that a person agrees to accept the AEC's determination of the amount of uranium contained in a processing batch, which determination shall be based upon the AEC's statistical measurement methods. (It should be noted that the respective AEC charges stipulated in paragraph 10.a. are estimated to cover applicable direct and indirect costs, separate headend measurements, depreciation, waste storage and continuing surveillance costs, and AEC's overhead charge.)

4. Delete paragraph 11. of said notice and substitute in lieu thereof the following:

Additional information concerning this notice, except as stated in paragraph 10.a. above, may be obtained from the U.S. Atomic Energy Commission, Washington, DC 20545.

5. This notice is effective upon publication in the FEDERAL REGISTER. Dated at Germantown, Md., this 24th day of November 1970.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary of the Commission.

[F.R. Doc. 70-16050; Filed, Nov. 30, 1970; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20993; Order 70-11-119]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority November 24, 1970.

By Order 70-11-37, dated November 9, 1970, action was deferred, with a view toward eventual approval, on an agreement adopted by the International Air Transport Association (IATA), relating to specific commodity rates. In deferring action on the agreement 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action.

No petitions have been received within the filing period, and the tentative conclusions in Order 70-11-37 will herein be made final.

Accordingly, it is ordered, That:

Agreement C.A.B. 21753, R-33, be and it hereby is approved, provided that approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-16070; Filed, Nov. 30, 1970; 8:48 a.m.]

[Docket No. 19078; Order 70-11-111]

NORTHEAST CORRIDOR VTOL INVESTIGATION

Order on Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of November 1970.

A petition for reconsideration and clarification of the Board's order in phase I of the above-entitled proceeding (Order 70-9-44, Sept. 8, 1970) has been filed jointly by de Havilland Aircraft of Canada, Pilgrim Aviation and Airlines, Reading Aviation Service, and Ransome Airlines. Answers have been filed by Allegheny Airlines, the Baltimore and Maryland parties, Eastern Air Lines, Executive Airlines, New York Airways,[1] and the Bureau of Operating Rights. In addition, a motion for deferral of further procedural steps has been filed by Mohawk Airlines, and an answer opposing the motion has been filed jointly by de Havilland, Pilgrim, Reading, and Ransome.

Upon consideration of the matters presented, we have decided to grant the joint petition for reconsideration in part and to dismiss Mohawk's motion for deferral. Specifically, we will modify the scope of phase II in this proceeding in two respects, as proposed by petitioners; neither change is opposed by any party. First, we will delete an issue added by the examiner[2]—namely, whether Part 298 of the regulations permits, and if so whether it should be amended to preclude, metroflight service by air taxis at the metropolitan areas in issue.[2a] Part 298 currently prohibits VTOL/STOL operations by an air taxi only between points receiving scheduled VTOL/STOL service by a certificated carrier, and even then only if the air taxi is unable to meet the 30-day test of the first proviso of § 298.21(d).[3] We find that no useful purpose would be served by considering further restrictions on VTOL/STOL service by air taxis in this investigation. There is no indication that air taxi operators using aircraft now authorized by Part 298 would present a competitive threat to any carrier selected by the Board to provide Northeast Corridor metroflight service. Moreover, while the Board is presently considering a possible broadening of air taxi authority in the Part 298 Weight Limitation Investigation, Docket 21761, the issues in that proceeding include the question of need for limiting use of larger aircraft by air taxis in competitive markets, including the intercity metroflight markets now before us. Examining similar issues here would be unnecessarily duplicative and would needlessly expose air taxis to the expense of participating defensively in phase II.

Second, we will broaden the scope of phase II to consider air taxi applications for exemptions permitting them to continue their noncertificated services in the event they are certificated to provide all or part of the subject metroflight operations. This limited expansion of the issues should overcome any reluctance by air taxis to apply for certificate authority that would automatically terminate their status as Part 298 carriers, and should, at the same time, increase the Board's decisional flexibility without unduly complicating or delaying this proceeding.

However, we will deny petitioners' further request that we include in this proceeding the question of feeder service between a metroflight landing site and

[1] New York Airways' late-filed answer was accompanied by a motion for leave to file. We have decided to grant the motion and to consider the answer on the merits.

[2] See paragraph 4 of the examiner's ultimate conclusions, I.D. p. 119.

[2a] As framed by the examiner, this issue would include a possible ban on VTOL/STOL operations by air taxis to or from any of the metropolitan areas at issue even if they did not operate between any two such areas.

[3] "[T]he foregoing limitation [on use of VTOL/STOL aircraft] shall not apply to an air taxi operator with respect to pairs of points it has served continuously and without interruption * * * on a regularly scheduled basis with a minimum of five round trips per week since at least 30 days immediately prior to the inauguration or resumption of service between the points by the holder of a certificate of public convenience and necessity."

a conventional airport in the same metropolitan area, or between a metroport in one metropolitan area and a conventional airport in another, to the extent that this issue exceeds the scope of this case as currently framed. Specifically, petitioners have presented no matters that would lead us to modify our earlier decision to exclude eight named high-density airports from consideration as possible landing site for metroflight operations,[4] whether between two points within the same metropolitan area or between two separate metropolitan areas. Such a modification would substantially broaden the issues, enlarge the record before us, and greatly complicate this investigation.

Finally, we find Mohawk's motion for a year's deferral of further procedural steps in this case to be essentially a petition for reconsideration of our decision in Order 70-9-44 to set phase II for hearing and of our finding that a "more modest" level of metroflight "is already possible with existing aircraft and facilities and can be instituted without delay." As a petition for reconsideration, Mohawk's pleading is untimely[5] and not accompanied by a motion for leave to file. Moreover, even considered on its merits, Mohawk's request for deferral is unpersuasive since the carrier has not presented any new matters not previously considered by the Board in its determination or otherwise demonstrated that the relief it seeks is warranted. For these reasons, Mohawk's motion will be dismissed.

Accordingly, it is ordered:

1. That except to the extent indicated herein, the petition for reconsideration and clarification filed jointly by de Havilland Aircraft of Canada, Pilgrim Aviation and Airlines, Reading Aviation Service, and Ransome Airlines be and it hereby is denied.

2. That the motion of New York Airways for leave to file its answer out of time be and it hereby is granted.

3. That Mohawk Airlines' motion for deferral of further procedural steps be and it hereby is dismissed.

4. That the scope of this proceeding be and it hereby is modified (a) to delete from consideration the question of whether the exemption of air taxi operators under Part 298 of the economic regulations extends to, and if so whether it now should be restricted to preclude, their providing metroflight service at any of the metropolitan areas in issue, and (b) to consider applications from air taxis requesting a continuation of their exemption under Part 298 to provide noncertificated operations in the event they are selected to provide all or part of the subject metroflight service.

5. That additional or amended applications conforming to the scope of this proceeding, as modified herein, shall be filed no later than 10 days after the date of service of this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-16071; Filed, Nov. 30, 1970; 8:48 a.m.]

[4] Logan, LaGuardia, Kennedy, Newark, Philadelphia International, Friendship, Washington National, and Dulles.

[5] Petitions for reconsideration were due on Sept. 29; Mohawk's motion was not received until Oct. 16.

FEDERAL RESERVE SYSTEM

C. B. INVESTMENT CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by C. B. Investment Corp., which is a bank holding company located in Houston, Tex., for prior approval by the Board of Governors of the acquisition by applicant of 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to First City National Bank of Houston, Houston, Tex.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Dallas.

By order of the Board of Governors, November 24, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-16051; Filed, Nov. 30, 1970; 8:46 a.m.]

MIDWEST BANCORPORATION, IN

Order Denying Acquisition of Ba Stock by Bank Holding Compan

In the matter of the application Midwest Bancorporation, Inc., Kan City, Mo., for approval of acquisition over 80 percent of the voting shares Community State Bank, Kansas City, I

There has come before the Board Governors, pursuant to section 3(a) of the Bank Holding Company Act 1956 (12 U.S.C. 1842(a)(3)) and § 22 (a) of Federal Reserve Regulation (12 CFR 222.3(a)), an application Midwest Bancorporation, Inc., Kan City, Mo., a registered bank holding co pany, for the Board's prior approval the acquisition of over 80 percent of voting shares of Community State Ba Kansas City, Mo.

As required by section 3(b) of the A the Board gave written notice of rece of the application to the Commissio of Finance of the State of Missouri requested his views and recommendati The Commissioner indicated that would offer no objection to approval the application, although he did expr concern about the effect on applica subsidiary banks of the initial propo for financing the acquisition.

Notice of receipt of the application published in the FEDERAL REGISTER September 17, 1970 (35 F.R. 145 which provided an opportunity for terested persons to submit comments views with respect to the proposed tra action. A copy of the application was f warded to the U.S. Department of Jus for its consideration. The time for fil comments and views has expired and those received have been considered the Board.

It is hereby ordered, For the reas set forth in the Board's Statement[1] this date, that said application be hereby is denied.

By order of the Board of Governo November 24, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretar

[F.R. Doc. 70-16052; Filed, Nov. 30, 1 8:46 a.m.]

NEW MEXICO BANCORPORATIO INC.

Notice of Application for Approval Acquisition of Shares of Banks

Notice is hereby given that applicat has been made pursuant to section 3 (1) of the Bank Holding Company of 1956 (12 U.S.C. 1842(a)(1)), by N Mexico Bancorporation, Inc., Santa N. Mex., for prior approval by the Bo

[1] Filed as part of the original docum Copies available upon request to the B of Governors of the Federal Reserve Syst Washington, D.C. 20551, or to the Fed Reserve Bank of Kansas City.

[2] Voting for this action: Chairman B and Governors Robertson, Mitchell, Da Maisel, Brimmer, and Sherrill.

of Governors of action whereby applicant would become a bank holding company through the acquisition of 80 percent or more of the voting shares of The First National Bank of Santa Fe, Santa Fe, N. Mex., and 80 percent or more of the voting shares of First State Bank of Taos, Taos, N. Mex.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Kansas City.

By order of the Board of Governors, November 23, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-16053; Filed, Nov. 30, 1970; 8:46 a.m.]

CIVIL SERVICE COMMISSION

DENTAL HYGIENIST, BOSTON AREA, BROCKTON, AND FORT DEVENS, MASS.

Notice of Establishment of Minimum Rates and Rate Ranges

Under authority of 5 U.S.C. 5303 and Executive Order 11073, the Civil Service Commission has established special minimum salary rates and rate ranges as follows:

GS-682 DENTAL HYGIENIST

Geographic Coverage: Boston Standard Metropolitan Statistical Area (includes Essex County (part), Middlesex County (part), Norfolk County (part), Plymouth County (part), and Suffolk County); Brockton and Fort Devens, Mass.

Effective Date: First day of the first pay period beginning on or after November 29, 1970.

PER ANNUM RATES

Grade	1	2	3	4	5	6	7	8	9	10
GS-4	$6,633	$6,828	$7,023	$7,218	$7,413	$7,608	$7,803	$7,998	$8,193	$8,388
GS-5	7,202	7,420	7,638	7,856	8,074	8,292	8,510	8,728	8,946	9,164

All new employees in the specified occupational level will be hired at the new minimum rates.

As of the effective date, all agencies will process a pay adjustment to increase the pay of employees on the rolls in the affected occupational levels. An employee who immediately prior to the effective date was receiving basic compensation at one of the statutory rates shall receive basic compensation at the corresponding numbered rate authorized by this notice on or after such date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

Under the provisions of section 3-2b, chapter 571, FPM, agencies may pay the travel and transportation expenses to first post of duty under 5 U.S.C. 5723 of new appointees to positions cited.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-15947; Filed, Nov. 30, 1970; 8:45 a.m.]

ASSISTANT TO THE SECRETARY, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on November 9, 1970, for the single position of Assistant to the Secretary, GS-301-15, Department of Health, Education, and Welfare, Washington, D.C. The finding is self-canceling when the position is filled.

Assuming other legal requirements are met, an appointee to this position may be paid for the expense of travel and transportation to first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-16038; Filed, Nov. 30, 1970; 8:45 a.m.]

MUSEUM CURATOR (ART), SMITHSONIAN INSTITUTION

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on November 4, 1970, for the single position of Museum Curator (Art), GS-1015-13, Renwick Gallery, Smithsonian Institution, Washington, D.C. The finding is self-canceling when the position is filled.

Assuming other legal requirements are met, an appointee to this position may be paid for the expense of travel and transportation to first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-16039; Filed, Nov. 30, 1970; 8:45 a.m.]

MUSEUM SPECIALIST (ART), SMITHSONIAN INSTITUTION

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on November 4, 1970, for the single position of Museum Specialist (Art), GS-1016-12, Smithsonian Institution, Washington, D.C. The position requires specialized knowledge and ability to conserve and restore rare sculpture as well as other art forms. The finding is self-canceling when the position is filled.

Assuming other legal requirements are met, an appointee to this position may be paid for the expense of travel and transportation to first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-16037; Filed, Nov. 30, 1970; 8:45 a.m.]

ORGANIZATIONAL DEVELOPMENT OFFICER, FEDERAL AVIATION ADMINISTRATION

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on October 21, 1970, for the single position of Organizational Development Officer, GS-301-14, Cleveland Area, Eastern Region, Federal Aviation Administration, Department of Transportation, Cleveland, Ohio. The finding is self-canceling when the position is filled.

Assuming other legal requirements are met, an appointee to this position may be paid for the expense of travel and transportation to first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-16040; Filed, Nov. 30, 1970; 8:45 a.m.]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

CLINCHFIELD COAL CO.

Application for Renewal Permit; Notice of Opportunity for Public Hearing

Application for a Renewal Permit for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m3) has been accepted for consideration as follows:

(1) ICP Docket No. 10422, Clinchfield Coal Co., Camp Branch No. 1, USBM ID No. 44-00280-0, Near Carrie, Dickenson County, Va., Section ID No. 004 (West Mains).

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, DC 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

NOVEMBER 27, 1970.

[F.R. Doc. 70-16058; Filed, Nov. 30, 1970; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

BUSINESS VENTURES, INC.

Notice of Issuance of License To Operate as Minority Enterprise Small Business Investment Company

On October 27, 1970, a notice was published in the FEDERAL REGISTER (35 F.R. 16658) stating that an application had been filed with the Small Business Administration pursuant to § 107.102 of the regulations governing Small Business Investment Companies (33 F.R. 326, 13 CFR Part 107) for a license to operate as a minority enterprise small business investment company by Business Ventures, Inc., 152 Temple Street, New Haven, CT 06510.

Interested parties were invited to submit their written comments to SBA. No comments were received.

Notice is hereby given that pursuant to the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), after having considered the application and all other pertinent information and facts with regard thereto, License No. 01/02-5266 was issued in Washington, D.C., on November 13, 1970, to Business Ventures, Inc., to operate as a minority enterprise small business investment company.

A. H. SINGER,
Associate Administrator for Investment.

NOVEMBER 17, 1970.

[F.R. Doc. 70-16054; Filed, Nov. 30, 1970; 8:46 a.m.]

TARIFF COMMISSION

[TEA-F-14]

ALBANY BILLIARD BALL CO.

Petition for Determination of Eligibility To Apply for Adjustment Assistance; Notice of Investigation

Investigation instituted. Upon petition under section 301(a)(2) of the Trade Expansion Act of 1962, filed by Albany Billiard Ball Co., 483 Delaware Avenue, Albany, NY, the U.S. Tariff Commission, on November 24, 1970, instituted an investigation under section 301(c)(1) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with the billiard balls produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

The petitioner has not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

Inspection of petition. The petition filed in this case is available for inspection at the office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: November 25, 1970.

By order of the Commission.

[SEAL] KENNETH H. MASON,
Secretary.

[F.R. Doc. 70-16060; Filed, Nov. 30, 1970; 8:47 a.m.]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance

IMPLEMENTATION OF EXECUTIVE ORDER 11246 IN SAN FRANCISCO AREA

Notice of Hearing

Notice is hereby given that, pursuant to section 208(a) of Executive Order 11246 (30 F.R. 12319), a public hear is to be held by the Office of Fed Contract Compliance, U.S. Departm of Labor on December 15-18, 1970, Ro 260, The Old Post Office, Seventh Mission Streets, San Francisco, Calif. order to afford interested persons an portunity to submit in writing and or data, views, or arguments to be cons ered by the Office of Federal Cont Compliance in implementing the requ ments and objectives of Executive Or 11246 with respect to federally invol construction in the San Francisco a The hearing will begin at 9:30 a.m., P. on Tuesday, December 15, 1970. The p entations will be made before a pa designated for this purpose by the rector of the Office of Federal Cont Compliance. Interested persons are couraged to appear and present t views before the panel.

Executive Order 11246 prohibits criminating against any employee or plicant for employment because of r color, religion, sex, or national or and further requires that the empl or prospective employer take affirma action to insure equal employm opportunity.

It is the responsibility of the Se tary of Labor and his Department to plement the purposes of Executive O 11246 throughout the country on F erally involved construction.

It has been the position of the partment that the objectives of Exe tive Order 11246 can be implemer most successfully through volunt area-wide agreements between cont tors, unions and community organ tions interested in furthering equal ployment opportunity, which are signed to increase the utilization of minority workforce in the skilled c struction trades in a particular a However, where as in the San Franc area, a voluntary agreement has been reached, the Department must appropriate action to insure that its ligations under Executive Order 1 are met.

The Department recognizes that cumstances and problems in the fiel equal employment opportunity from one area of the country to anot and that those living and working specific area are in the best positio evaluate the problems of their respec communities and assist the Departm with facts and ideas as to the most fective way to implement the Execu order. It is this assistance whic sought at the above noticed hearing

Therefore, all interested persons requested to appear before the Hea Panel or otherwise submit data or least the following points:

(1) The current extent of mino group participation in each const tion trade, and the full employee c plement of each trade;

(2) A statement and evaluation present employee recruitment meth as well as the assistance and effect ness of any employer or union progr to increase minority participation the trades;

(3) The availability of qualified and qualifiable minority group persons for employment in each construction trade, including where they are now working, how they may be brought into the trades, etc.;

(4) An evaluation of existing training programs in the area, including the number of minorities and others recruited into the programs, the number who complete training, the length and extent of training, employer experience with trainees, the need for additional or expanded training programs, etc.;

(5) An anlysis of the number of additional workers that could be absorbed into each trade without displacing present employees, including consideration of present employee shortages, projected growth of the trade, projected employee turnover, etc.;

(6) The desirability and extent, including the geographical scope of possible Federal action to insure equal employment opportunity in the construction trades.

All persons wishing to present their views orally, before the panel, should notify Mr. James Warren, Area Coordinator for the Office of Federal Contract Compliance, U.S. Department of Labor, at 1003 Federal Office Building, 450 Golden Gate Avenue, San Francisco, CA (telephone: (415) 556-6017) of their intention to appear on or before December 9, 1970, and of the approximate amount of time which they expect their presentations to take, so as to facilitate an orderly scheduling of witnesses. Those persons desiring to file written statements and pertinent information relative to this hearing may do so by filing the same with the Office of Federal Contract Compliance on or before December 18, 1970.

Copies of Executive Order 11246 can be obtained from the Office of Federal Contract Compliance, Department of Labor, 14th Street and Constitution Avenue, Washington, DC 20210, or from the Area Coordinator in San Francisco.

Signed at Washington, D.C., the 25th day of November 1970.

JOHN L. WILKS,
Director,
Office of Federal Contract Compliance.

[F.R. Doc. 70-16085; Filed, Nov. 30, 1970; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 103]

APPLICATIONS OF MOTOR CARRIERS OF PROPERTY

NOVEMBER 24, 1970.

The following applications are governed by the Interstate Commerce Commission's special rules governing property or passengers under section 5(a) and 210a(b) of the Interstate Commerce Act, and certain other proceedings with respect thereto (49 CFR 1100.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11031. Authority sought for merger into LEE WAY MOTOR FREIGHT, INC., 3000 West Reno, Oklahoma City, OK 73108, of the operating rights of LEE WAY MOTOR FREIGHT OF CALIFORNIA, INC., 3000 West Reno, Oklahoma City, OK 73108, and for acquisition by R. E. LEE AND M. S. LEE, both also of 3000 West Reno, Oklahoma City, OK 73108, of control of such rights through the transaction. Applicants' attorneys: Roland Rice, 618 Perpetual Building, 1111 E Street NW., Washington, DC 20004 and Richard H. Champlin, 3000 West Reno, Post Office Box 82488, Oklahoma City, OK 73108. Operating rights sought to be merged: *General commodities,* except those of unusual value, household goods as defined by the Commission, commodities in bulk, motor vehicles, livestock, classes A and B explosives, and commodities requiring special equipment, as a *common carrier* over regular and irregular routes between Los Angeles, Calif., and the Los Angeles Basin Area over U.S. Highway serving all intermediate points, off-route points in named counties and Stockton and Sacramento, Calif., and from Stockton and Sacramento to San Francisco, Calif., and points in the San Francisco Basin Area. All of the routes are contained in Certificate No. MC-99833, Sub. No. 3. LEE WAY MOTOR FREIGHT, INC., is authorized to operate as a *common carrier* in Texas, Kansas, Oklahoma, Missouri, Indiana, Illinois, Ohio, Pennsylvania, West Virginia, Arkansas, Arizona, New Mexico, California, and Colorado. Application has not been filed for temporary authority under section 210a(b). NOTE: No. MC-F-10213, LEE WAY MOTOR FREIGHT, INC., Control and Merger, PACIFIC EXPRESS TRANSPORTATION. Control approved under former name PACIFIC EXPRESS TRANSPORTATION. Reason for limiting protest period to 15 days from publication is to permit handling of application if uncontested during the current year.

[SEAL] ROBERT L. OSWALD,
Secretary.

[F.R. Doc. 70-16049; Filed, Nov. 30, 1970; 8:46 a.m.]

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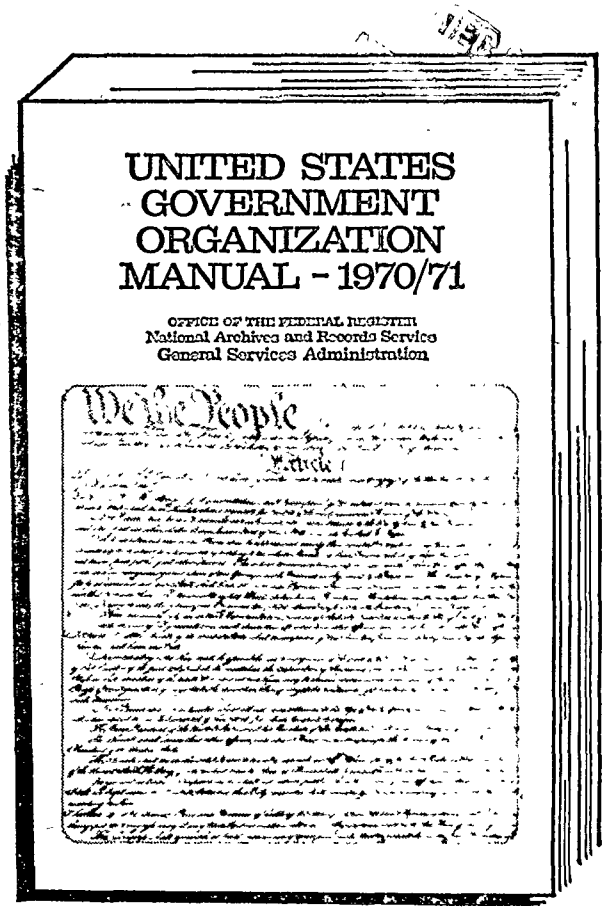

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